Cryptomercantilism vs. Monetary Sovereignty

How stablecoin laws shape the battle for international monetary supremacy

Martino, E.D.; van 't Klooster, J.M.; Monnet, E.

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Jens van ’t Klooster, Edoardo D. Martino, Eric Monnet

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CRYPTOMERCANTILISM VS. MONETARY SOVEREIGNTY

HOW STABLECOIN LAWS SHAPE THE BATTLE FOR INTERNATIONAL MONETARY SUPREMACY

Edoardo D. Martino

Jens van 't Klooster

Eric Monnet

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Cryptomercantilism vs. Monetary Sovereignty

How stablecoin laws shape the battle for international monetary supremacy

JENS VAN'T KLOOSTER*, EDOARDO D. MARTINO†, ERIC MONNET‡

ABSTRACT

The second Trump administration is openly promoting the widespread adoption of cryptocurrencies, particularly stablecoins. Stablecoins are privately issued cryptocurrencies, whose value is pegged to official currencies such as the US dollar. This article asks how the EU and US—the issuers of the world's two leading currencies—approach stablecoins through their respective legal frameworks. We contrast a US strategy of cryptomercantilism with an EU strategy of monetary sovereignty. These strategies yield legal frameworks that look similar on the surface but diverge sharply in substance. The US's 2025 GENIUS Act aims to enhance the dollar's dominance in global payment systems and stimulate new demand for US assets, particularly government bonds. The EU's 2024 MiCAR serves to safeguard the state's ability to govern money. We conclude by discussing how the euro area and other countries can react to US cryptomercantilism, highlighting new challenges related to regulatory equivalence agreements and fungibility of tokens issued in different jurisdictions.

KEYWORDS: Stablecoins, Crypto-assets; Cryptomercantilism, MiCAR, GENIUS Act,

JEL CLASSIFICATION: E42; F33; K23

* Associate Professor of Political Economy, University of Amsterdam.
† Associate Professor of Law & Economics, University of Amsterdam.
‡ Professor of Economics, Paris School of Economics.

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1. Introduction

Stablecoins are set to reshape the nature of global currency competition.[1] These new crypto-assets are legally defined in terms of a commitment and a technology. Their issuer commits to exchange a stablecoin for a monetary instrument denominated in a widely accepted currency, like the euro or the dollar, at a one-to-one ratio ("at par").[2] From a technological perspective, stablecoins are digital assets. They exist on distributed ledgers, making them similar to some forms of central bank digital currencies (CBDC).[3] However, a CBDC is a liability of the central bank.[4] Like physical banknotes, it is legal tender and cannot, in principle, be refused by creditors as a means of payment.[5] Stablecoins, on the other hand, are similar to bank deposits and money market funds. They are liabilities of private companies. Stablecoins do not have legal tender status, and their trustworthiness does not stem directly from state guarantees. They are backed by assets that may not be entirely safe or liquid, making them vulnerable to convertibility risk and potential runs.[6] Instead, their purported stability ultimately rests on the existence of an adequate regulatory framework.[7]

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[1] Mitsu Adachi and others, 'Stablecoins' Role in Crypto and beyond: Functions, Risks and Policy' (2022) 18 Macroprudential Bulletin; Jamie Morgan, 'Systemic Stablecoin and the Brave New World of Digital Money' (2023) 47 Cambridge Journal of Economics 215; Brunello Rosa and Casey Larsen, Smart Money: How Digital Currencies Will Win the New Cold War-and Why the West Needs to Act Now (Bloomsbury Publishing 2024). For a broader conceptualization, see Dan Awrey, Beyond Banks (Princeton University Press 2024).

[2] Iñaki Aldasoro, Perry Mehrling and Daniel H Neilson, 'On Par: A Money View of Stablecoins' (2024) 11 Journal of Financial Market Infrastructures 47.

[3] Matteo Aquilina, Jon Frost and Andreas Schrimpf, 'Decentralized Finance (DeFi): A Functional Approach' (2024) 10 Journal of Financial Regulation 1; José Aurazo and others, 'Central Bank Digital Currencies and Fast Payment Systems: Rivals or Partners?' [2024] BIS Papers; Corinne Zellweger-Gutknecht, Benjamin Geva and Seraina Neva Grünewald, 'Digital Euro, Monetary Objects, and Price Stability: A Legal Analysis' (2021) 7 Journal of Financial Regulation 284s; Signe Krogstrup and Thomas Sangill, 'New Technologies and the Future Governance of Bank Run Risk' (2024) 10 Journal of Financial Regulation 135. For a political science perspective, see, Lucia Quaglia and Amy Verdun, 'Weaponisation of Finance: The Role of European Central Banks and Financial Sanctions against Russia' (2023) 46 West European Politics 872.

[4] See, Proposal for a Regulation of the European Parliament and of the Council on the establishment of the digital euro [2023] COM/2023/369 final. On the status of liability of the European Central Bank, see article 2(11) of the Proposal. On the legal tender status of the digital euro, see Article 7(1) of the Proposal.

[5] On the concept and legal implications of legal tender status, see Simon Gleeson, The Legal Concept of Money (Oxford University Press 2018) 133.The law of legal tender is challenged by the development of digital money, and the area is subject to sparkling debates. In the EU, the ECJ clarified the extent to which legal tender can be refused when discharging monetary obligations. See Cases C-422/19 and C-423/19, Johannes Dietrich and Norbert Häring v Hessischer Rundfunk [2021].

[6] Gary B Gorton and Jeffery Y Zhang, 'Taming Wildcat Stablecoins' (2023) 90 U. Chi. L. Rev. 909.

[7] Edoardo D Martino and W Georg Ringe, 'The Social Cost of Blockchain: Externalities, Allocation of Property Rights, and the Role of the Law' [2025] European Journal of Risk Regulation 1, 14. To understand the pivotal role of regulation in governing and channelling the crypto space, it is instructive to see that before the wave of regulatory interventions, scholars were considering stablecoins as a way to break dollar hegemony whereas the GENIUS Act was able to singlehandedly reverse the narrative. See Luca

What makes stablecoins so effective as a means of currency competition?[8] While moneys are typically not strictly bound by the territorial claims of states, borders do present obstacles to international use.[9] This is clearly exemplified by moneys that take the form of physical assets, gold or bank notes. These can be carried across borders, but doing so raises all the risks of international transport: Theft, destruction or other forms of loss of the item. For international payments, accordingly, credit money has typically been used: Historically, bills of exchange, today, settlement via New York-based correspondent banks.[10] However, monetary liabilities have strong ties with the jurisdiction in which they are issued, and cross-border use is far from straightforward.[11]

Stablecoins have features that are new in monetary history, making them much easier to use across borders.[12] CBDCs are – like banknotes – primarily intended to circulate in the jurisdiction where they are legal tender. Stablecoins, by contrast, are designed to circulate globally, regardless of the geographical location of the assets backing them, and potentially independent from national laws. A stablecoin pegged to the US dollar and backed by dollar-denominated assets can, in theory, be used easily in countries around the world: An app on a phone suffices.

The significance of the new technology for currency competition will ultimately depend on national regulatory choices, from issuing jurisdictions as well as third countries. The EU and the US have both sought to promote their regulatory framework as a global benchmark for stablecoins worldwide. The US has sought to make its regulatory regime welcoming for potential issuers, in particular compared to the EU.[13]

Accordingly, in this article, we ask: How do the issuers of the two most widely used international currencies, the EU and the US, approach stablecoins through their domestic legal frameworks? We distinguish a US strategy of cryptomercantilism and an EU strategy of monetary sovereignty, which both inform superficially similar, but on closer inspection, strikingly different legal frameworks.

Fantacci and Lucio Gobbi, 'Stablecoins, Central Bank Digital Currencies and US Dollar Hegemony' (2024) 14 Accounting, Economics, and Law: A Convivium 173

[8] Susan Strange, "The Politics of International Currencies" (1971) 23 World Politics 215; Benjamin J Cohen, "The Geography of Money," *The Geography of Money* (Cornell university press 2018); Eric Helleiner, *The Making of National Money: Territorial Currencies in Historical Perspective* (Cornell University Press 2018).

[9] Ulrich Bindseil and George: Pantelopoulos, 'Towards the Holy Grail of Cross-Border Payments' (2022) 2693.

[10] For a brief historical overview of the evolution of cross-border payment systems, see ibid. 6.

[11] Ulrich Bindseil and Richard Senner, 'Revisiting National, Economic, and Monetary Sovereignty'.

[12] Gary Gorton, 'The History and Economics of Safe Assets' (2017) 9 Annual Review of Economics 547.

[13] See the comparative legal analysis in Section 4.1

Since the re-election of Donald Trump, the US has sought to promote the development of stablecoins, explicitly supporting their use for cross-border transactions. The administration stopped the Federal Reserve's CBDC projects while pushing USD stablecoins. At the same time, the administration made promoting USD-backed stablecoins a central priority.[14] The Trump family itself is issuing a stablecoin via their ownership of World Liberty Financial.[15] The administration has repeatedly stressed that the policy is designed to maintain the dollar's dominance and sustain demand for US debt, partly substituting for the reserves traditionally held by foreign central banks.[16] If stablecoins are predominantly backed by US debt, the argument goes, their global use may generate additional demand for US securities. To accelerate adoption, the US can leverage its strengths in e-commerce and digital platforms – especially through the GAFAM group (Google, Apple, Facebook, Amazon, Microsoft). The GENIUS Act, recently passed in the Senate, provides a supportive legal framework.[17]

We analyse the US strategy as one of "cryptomercantilism.".[18] We describe the strategy as cryptomercantilism because it involves the use of stablecoins as instruments of state power through the expansion of private companies.[19] It reflects a public–private partnership model for monetary arrangements, where private profits align with state interests.[20] While such partnerships may also serve other interests (public or private)

[14] On 23 January 2025, the President signed an executive order to support "the development and growth of lawful and legitimate dollar-backed stablecoins worldwide."

[15] Eric Lipton, David Yaffe-Bellany, Bradley Hope, Tripp Mickle and Paul Mozur, 'Anatomy of Two Giant Deals: The U.A.E. Got Chips. The Trump Team Got Crypto Riches'(New York Times, 15 September 2025) <https://www.nytimes.com/2025/09/15/us/politics/trump-uae-chips-witkoff-world-liberty.html> accessed 26 September 2025.

Michelle Conlin, Tommy Reggiori Wilkes and Zaheer Kachwala, 'Trump's World Liberty Token Falls in First Day of Trading' (*Reuters*, 1 September 2025) <https://www.reuters.com/business/trumps-world-liberty-token-falls-first-day-trading-2025-09-01/> accessed 25 September 2025.

[16] See, White House, 'Strengthening American Leadership in Digital Financial Technology' (2025). Available at https://www.whitehouse.gov/presidential-actions/2025/01/strengthening-american-leadership-in-digital-financial-technology/. Kate Duguid and Claire Jones, 'Scott Bessent bets on stablecoins to bolster demand for Treasuries' (19 August 2025) Financial Times, available at https://www.ft.com/content/1914c189-b4ed-46dd-adde-106b08a68183.

[17] S. 1582 – 119TH Congress (2024-2025): Guiding and Establishing National Innovation for US Stablecoins Act - GENIUS act (2025, July 14th).

[18] Eric Monnet, 'Cryptomercantilism: Donald Trump's Monetary Doctrine' (2025) 1139 SUERF Policy Brief.

[19] Stephen Quinn, 'Securitization of Sovereign Debt: Corporations as a Sovereign Debt Restructuring Mechanism in Britain, 1694-1750' [2008] Available at SSRN 991941; Arnaud Orain, 'The True Nature of Contemporary Mercantilism' [2019] Esprit 89; David Ormrod, *The Rise of Commercial Empires: England and the Netherlands in the Age of Mercantilism, 1650-1770*, vol 10 (Cambridge University Press 2003).

[20] The term mercantilism draws on the 18th-century mercantilist doctrine, which sought to enhance state wealth and power not only via trade surpluses but also through broader economic activism, see e.g. Eric Helleiner, *The Neomercantilists: A Global Intellectual History* (Cornell University Press 2021). A key feature of historical mercantilism in the 18th century in England, the Netherlands or France, was reliance on private

beyond dollar dominance and US debt demand, exploring these broader dynamics lies beyond the scope of this article.

We contrast the US's strategy with the EU's approach, which focuses on safeguarding users, internal financial stability, and monetary sovereignty. The EU was the first jurisdiction to regulate stablecoins with the 2024 Markets in Crypto-Assets Regulation (MiCAR). Rather than pursuing an internationalisation agenda, the EU sought to ring-fence its digital financial space and prevent widespread use of insufficiently regulated coins. To this day, appetite to expand euro-pegged stablecoins in the EU and abroad is limited; euro-denominated coins constitute 0.02% of global market capitalisation. We describe the strategy that informs MiCAR as one of "monetary sovereignty", since its overriding aim is to safeguard the state's ability to govern money. Such governance spans direct control of public money creation at the central bank and regulation of private money creation by banks and financial institutions.[21]

Our article puts forward the first comparative study of domestic monetary laws for stablecoins, focusing on the strategic interactions between the EU's MiCAR[22] and the US's GENIUS Act.[23] The literature on the regulation[24] and the international political economy[25] of financial assets designed using the distributed ledger technology has generally converged on the limited monetary nature of the first generation of

companies—such as the East India Company—that advanced national interests while pursuing private profit and holding a great share of public debt. The American promotion of privately issued stablecoins to reinforce dollar dominance and stimulate foreign holdings of U.S. debt share similarities with these historical objectives and mechanisms.

[21] Steffen Murau and Jens van 't Klooster, 'Rethinking Monetary Sovereignty: The Global Credit Money System and the State' (2023) 21 Perspectives on Politics 1319; Edoardo D Martino, 'Monetary Sovereignty in the Digital Era. The Law & Macroeconomics of Digital Private Money' (2024) 52 Computer Law & Security Review 105909; Katharina Pistor, 'From Territorial to Monetary Sovereignty' (2017) 18 Theoretical Inquiries in Law.

[22] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto assets. OJ L 150, 40.

[23] Christopher K Odinet and Andrea Tosato, 'Regulating Stablecoins: Comparing MiCAR and the GENIUS Act' [2025] Texas A&M University School of Law Legal Studies Research Paper Forthcoming.

[24] See, among many, Katrin Schuler, Ann Sofie Cloots and Fabian Schär, 'On DeFi and On-Chain CeFi: How (Not) to Regulate Decentralized Finance' (2024) 10 Journal of Financial Regulation 213; Sarah Green, 'It's Virtually Money' in David Fox and Sarah Green (eds), Cryptocurrencies in Public and Private Law (Oxford University Press 2019); Dirk A Zetzsche, Douglas W Arner and Ross P Buckley, 'Decentralized Finance' (2020) 6 Journal of Financial Regulation 172.

[25] See, for instance, Hyoung-kyu Chey, 'Cryptocurrencies and the IPE of Money: An Agenda for Research' (2023) 30 Review of International Political Economy 1605; Carola Westermeier, 'The Digital Euro: A Materialization of (in)Security' (2024) 31 Review of International Political Economy 1569; Matti Ylönen, Ringa Raudla and Milan Babic, 'From Tax Havens to Cryptocurrencies: Secrecy-Seeking Capital in the Global Economy' (2024) 31 Review of International Political Economy 563; Tomás N Rotta and Edemilson Paraná, 'Bitcoin as a Digital Commodity' (2022) 27 New Political Economy 1046.

decentralised, on-chain assets.[26] By contrast, the more clearly money-like nature of stablecoins backed by a centralised issuer[27] has been widely recognised to have potentially far-reaching implications for financial stability[28] and monetary sovereignty.[29] Unlike fiat money, stablecoins are backed by asset portfolios that may be relatively illiquid. They may also be susceptible to significant portfolio shifts as issuers seek yield.[30] This introduces vulnerabilities even under the strictest regulations. Despite these risks, they are likely to play a role in global currency competition alongside[31] and potentially competing with,[32] central bank digital currencies. Our analysis contributes to both the legal and IPE literatures by studying the first legislative initiatives for core currency stablecoins, as we highlight interactions and trade-offs between the objectives of financial stability, smooth operations of the domestic payment system and the promotion of widespread international use of a currency.

The article proceeds as follows. In Section 2, we situate stablecoins in the broad literature on money, focusing on the history of money to provide insight into what stablecoins are and how they differ from more familiar forms of money. In Section 3, we analyse the risks and trade-offs that core currency issuers face in regulating the issuance of stablecoins. In Section 4, we develop a systematic comparison between MiCAR and the GENIUS Act, bringing out how the strategies of US cryptomercantilism and EU monetary sovereignty yield different legal frameworks. In Section 5, we conclude, providing an assessment of the risks posed by stablecoins and policy recommendations to address the most severe risks.

[26] Eswar S Prasad, *The Future of Money* (Harvard University Press 2021); Aquilina, Frost and Schrimpf (n 3).
[27] Douglas Arner, Raphael Auer and Jon Frost, 'Stablecoins: Risks, Potential and Regulation' [2020] Financial Stability Review.
[28] Awrey (n 1).
[29] Martino, 'Monetary Sovereignty in the Digital Era. The Law & Macroeconomics of Digital Private Money' (n 21). From an international political economy perspective, see Christopher Olk and Louis Miebs, 'A Credit Theory of Anti-Credit Money: How the Cryptocurrency Sphere Turned into a Shadow Banking System' [2025] Review of International Political Economy 1.
[30] For initial empirical evidence on the matter, see Nico Oefele, Dirk G Baur and Lee A Smales, 'Are Stablecoins the Money Market Mutual Funds of the Future?' (2024) 79 Journal of Empirical Finance 101557.
[31] Chey (n 25); Fantacci and Gobbi (n 7).
[32] Barbara Brandl, David Hengsbach and Guadalupe Moreno, 'Small Money, Large Profits: How the Cashless Revolution Aggravates Social Inequality' (2025) 23 Socio-Economic Review 735; Heng Wang and Simin Gao, 'The Future of the International Financial System: The Emerging CBDC Network and Its Impact on Regulation' (2024) 18 Regulation & Governance 288; Westermeier (n 25).

2. Stablecoins and the theory of money

Since the launch of Tether in 2014, entrepreneurs and - increasingly - policymakers have sought to develop new moneys using distributed ledger technology ("on-chain" money) to fit into existing monetary systems.[33] Unlike other crypto-assets, stablecoins are denominated in an official unit of account, overwhelmingly the US dollar. Stablecoins are privately issued and derive their stability from the trust that issuers will keep the coin solvent and liquid. To support this trust, rules on redemption, conversion and asset backing play quintessential roles. Accordingly, the applicable legal frameworks are crucial to supporting stablecoins' money-like nature.

We position stablecoins in the academic debate(s) on money. This allows us to set the stage for analysing the political economy of cryptomercantilism (Section 3) and to show how the law on stablecoins shapes the battle for international monetary supremacy in the digital age (Section 4).

2.1 Public and private moneys

For any major currency, such as the euro or the dollar, there is never just one monetary asset. Instead, major currencies are used across borders through a bewildering variety of public and privately issued money-like assets.[34]

For an asset to be used as money for a specific currency, it needs to have two key features.[35] First, it needs a stable value. Money-like assets have a stable nominal value (measured in the unit of account in which the money is denominated). This comes with two related characteristics: first, the stability (i.e., solvency) of the issuer; second, the liquidity of the money-like asset in all situations.[36] Accordingly, a euro on an ECB deposit is worth EUR1, but so is a deposit issued by a bank in euros. Second, ease of payment, money-like assets can be used to discharge payment obligations relatively easily.[37] This depends on how widely it is accepted as a means of payment, but also on the costs of use, and ease of holding the asset and transacting with it.

[33] Prasad (n 26); Olk and Miebs (n 29).
[34] Helleiner, 'The Neomercantilists' (n 21); Murau and van 't Klooster (n 21).
[35] Awrey (n 1). For a historical account of the evolution of money-like assets and their characteristics, see Gorton (n 12).
[36] Liquidity is a crucial feature of money-like assets as it explains why actors forgo financial return to hold money-like assets. This is called 'liquidity premium'. For an empirical analysis Arvind Krishnamurthy and Annette Vissing-Jorgensen, 'The Aggregate Demand for Treasury Debt' (2012) 120 Journal of Political Economy 233.
[37] Gleeson (n 5) 163.

Money, accordingly, is not a strictly defined category, but various assets can have money-like characteristics depending on the stability of their value and their ease of use for payments. To achieve the status of money, a given asset needs to fulfil both requirements, thereby becoming credible to the public and hence widely accepted 'no questions asked'.[38] The extent to which this is the case, however, differs, and some forms of money score higher on one dimension than the other. As we will see, stablecoins may become widely adopted as money due to a (potentially) high ease of payment, without necessarily having a particularly stable value.

We propose a tripartition of money-like assets: (1) public money, (2) public-private money, and (3) private money. The distinction concerns the issuer and how the promise of stability is guaranteed, including the role of regulation and the express support of the State. Table 1 summarises the main forms of money-like assets for each category, distinguishing between off-chain and on-chain money-like assets. Clearly, some forms of money are hard to fit into one category, in particular those at the intersection between public/private and pure private money. In practice, the support of the state to money-like assets is often known only ex-post and not ex-ante.[39]

	Off-chain money	**On-chain money**
Public money	▪ Bank notes ▪ Central bank deposits	▪ Central bank digital currency
Public-private money	▪ Bank deposits. ▪ Banknotes issued by private banks and legally required to be backed by government debt (e.g. National Banking Era in the US, 19th century) ▪ Money Market Fund Shares	▪ Tokenised deposits ▪ Regulated stablecoins
Private money	▪ Repo ▪ ABCPs ▪ Amazon vouchers	▪ Unregulated stablecoins ▪ Algorithmic stablecoins ▪ Decentralised crypto-assets

Table 1 – Taxonomy of moneys off-chain and on-chain

The public money category is straightforward and includes State-issued banknotes and coins as well as central bank deposits. Central bank digital currencies (CBDC) could

[38] Bengt Holmstrom, 'Understanding the Role of Debt in the Financial System' (2015).
[39] Katharina Pistor, 'A Legal Theory of Finance' (2013) 41 Journal of Comparative Economics 315, 320.

still take different forms but were originally introduced as on-chain version of public money. However, moneys are not just issued by the State.[40] Monetary systems typically combine public money, which is issued directly by state institutions, such as central bank notes and reserves and private money issued by other financial institutions.[41] Since the latter are private companies, issuers can fail to maintain the stable value of the money and default.[42]

The stable value of private credit money depends crucially on the support of the State, including the applicable regulation. Private-public credit money is created by strictly regulated financial institutions, typically banks, to ensure their stable value. By public-private money we mean forms of money-like assets that are privately issued but expressly supported by the fiscal capacity of the state where the issuer is incorporated through, for instance, deposit insurance or the access to lender of last resort facilities. Accordingly, these forms of money are usually bound by fairly strict regulation to ensure their solvency and liquidity, such as the prudential capital and liquidity requirements enshrined in the Basel Accords and implemented in individual jurisdictions.[43] Insured bank deposits are a prime example. Bank deposits and other private moneys can function as money because for most users the difference with public money is small. In more technical terms, private-public money is functionally equivalent to public money. Bank deposits are often used for similar payment purposes. They are also stable due to bank deposit insurance, access to central bank credit, and a basic expectation that states will bail out major domestic institutions. So, ultimately, the state is crucial for facilitating the functional equivalence of private-public money, and for this reason, the support that states give to a specific money determines its status as public-private money. Interestingly, both insured and uninsured deposits can be considered forms of private-public money, even though they are different

[40] Geoffrey Ingham, *The Nature of Money* (John Wiley & Sons 2013).
[41] Karl Brunner and Allan H Meltzer, 'Money Supply' in Benjamin M Friedman and Frank H Hahn (eds), *Handbook of Monetary Economics*, vol 1 (1990).
[42] Marcin Kacperczyk and Philipp Schnabl, 'How to Avoid Breaking the Buck' in Viral V. Acharya and others (eds), Regulating Wall Street: The Dodd-Frank Act and the New Architecture of Global Finance (John Wiley & Sons 2010). In a sense the whole discussion over the special regimes to handle the default of financial institutions issuing money-like assets, such as bank resolution, can be understood as an attempt to minimize the disruption of such failures on the monetary system, limiting value destruction. For a critical introduction to the matter, see Emilios Avgouleas and Charles Goodhart, 'Critical Reflections on Bank Bail-Ins' (2015) 1 Journal of Financial Regulation 3.
[43] For a broad introduction to the matter, see John Armour and others, *Principles of Financial Regulation* (Oxford University Press 2016) 279.

in terms of promise of stability. On the other hand, they can be used interchangeably for payment, and both are often protected ex-post in case of the issuer's default.[44]

This latter consideration is interesting when looking at the on-chain version of private-public money: regulated stablecoins. As we show in detail in Section 4, stablecoins issued by different jurisdictions are supported by different regulatory frameworks and, possibly, by different levels of implicit guarantee on the issuer's solvency. For instance, stablecoins issued in the US are supported by a strong promise of redemption at par but by a relatively lax prudential regulation. In contrast, the EU stablecoins have a more conditional promise of redemption at par and more stringent prudential rules, enhancing their resilience to shocks. Both are part of the private-public money category, but at the same time, they are also different forms of money, even if they are equally labelled as 'stablecoins'.

Not all forms of private money benefit from regulation and public backing. Historically, new forms of private money often emerge, acquire increased importance and go down when market confidence shifts.[45] In principle, the State pledges to not step in, but once a form of money has become too important for the economy, states often do, as happened with shadow banking in the 2008 crisis.[46] In such circumstances, private money becomes "accommodated" by the state into the private-public or even public segments through regulation and public backstops.[47] A paradigmatic example of this are Money Market Funds shares. These were created as purely private money in the 1960s and climbed the financial hierarchy up to the point of being systemically relevant. MMF became more and more systemically relevant and, accordingly, starting with the 2008 crisis, they were bailed out ex post, despite the promise not to do so. Conversely, MMF started being regulated more strictly in the aftermath of the Global Financial Crisis.[48] Recently, US MMFs also received explicit ex ante support by allowing public debt MMFs to benefit from the Federal Reserve discount window.[49]

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[44] The recent collapse and bail-out of the Silicon Valley Bank clearly proves this point. Andrew Metrick, 'The Failure of Silicon Valley Bank and the Panic of 2023' (2024) 38 Journal of Economic Perspectives 133.
[45] Steffen Murau, *The Political Economy of Private Credit Money Accommodation* (City, University of London 2017); Steffen Murau, 'Shadow Money and the Public Money Supply: The Impact of the 2007–2009 Financial Crisis on the Monetary System' (2017) 24 Review of International Political Economy 802.
[46] This happens when a form of not publicly backed private money climbs the hierarchical ladder of the financial system. See Pistor (n 39) 319.
[47] Murau, 'Shadow Money and the Public Money Supply' (n 45).
[48] Kacperczyk and Schnabl (n 42).
[49] Lei Li and others, 'Liquidity Restrictions, Runs, and Central Bank Interventions: Evidence from Money Market Funds' (2021) 34 The Review of Financial Studies 5402.

Pure private credit money (or "shadow money") is issued by private institutions without public guarantees and strict regulation to ensure stable value. The state does not get involved in the issuance of the money in the distinctive ways in which it supports public-private moneys. Today, common types of pure private money include repurchase agreements (repos) and asset backed commercial papers (ABCPs). Amazon vouchers also fall into this category. Private moneys are money because their issuer commits to maintain a 1-1 valuation relative to other forms of money in the same currency (through redemption or conversion "at par"), but the extent to which it fulfils this commitment differs considerably. The evolution of bank regulation[50] and central bank liquidity provision[51] since the 19th century involve an increase of public backing, with more risky money forms giving way to safe bank deposits which are *de facto* always fully convertible in the public currency issued by the central bank (and even sometimes insured).[52]

2.2 Building stability for stablecoins: redemption, conversion, asset backing

We now turn our attention to the on-chain world, analysing how on-chain money-like assets can guarantee their (purported) stable value.[53] Public on-chain moneys are issued by public institutions, typically as CBDC.[54] They are legal tender and retain their value independent of their convertibility into other moneys denominated in the unit of account.[55] The ECB is currently issuing a wholesale digital euro, and more than thirty central banks are involved in such projects. These can be targeted to large payments between financial institutions (wholesale) or for use in retail payments.[56] An early executive order and the currently debated Anti-CBDC Surveillance State Act prohibit the Fed from issuing such a currency.[57]

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[50] Richard S Grossman, 'Unsettled Account: The Evolution of Banking in the Industrialized World since 1800', *Unsettled Account* (Princeton University Press 2010).
[51] Éric Monnet, Balance of Power: Central Banks and the Fate of Democracies (University of Chicago Press 2024).
[52] Gary Gorton, 'Pricing Free Bank Notes' (1999) 44 Journal of Monetary Economics 33; Gary Gorton, 'Reputation Formation in Early Bank Note Markets' (1996) 104 Journal of Political Economy 346.
[53] Aldasoro, Mehrling and Neilson (n 2).
[54] The term "currency" in central bank digital currency is misleading as these projects are merely new forms of money for existing currencies like the euro and the dollar. "Digital" is also misleading as most credit moneys also only existing in digital form.
[55] Gleeson (n 5) 153.
[56] Keith Bear and others, 'Wholesale Central Bank Digital Currencies (WCBDCs): Approaches, Implementation Strategies and Use Cases' (2024).
[57] Working Group on Digital Asset Markets, 'Strenthening American Leadership in Digital Finance Technology.' (2025).

In contrast, stablecoins are issued privately. Using the EU law definition, they are "a type of crypto-asset that purports to maintain a stable value by referencing the value of one official currency".[58] The coins exist on distributed ledgers (i.e., "on-chain"), but may involve various forms of governance by their issuers.[59] This mainly relates to the distinction between permissionless and permissioned blockchains.[60] Permissionless means that any node of the network is free to participate in the consensus protocol and validate data. One can think of the mainstream ledgers, such as the Ethereum and Solana ones. In contrast, in a permissioned blockchain, participation in the network and the validation of data is restricted to those who are authorised by those who control the ledger. There are currently several emerging experiments by mainstream financial players, such as Kinexys by JP Morgan (previously known as Onyx). Such governance is crucial to embed the distributed ledger technology into the existing monetary system, but it depends on a degree of trust in the owner of the ledger.

The EU and US regulatory efforts we study in this article aim to turn stablecoins into means of payment that are functionally similar to public money, making them part of the private-public money category.[61] With ongoing efforts to regulate stablecoins, these increasingly fall into the regulated category. However, other forms of private on-chain moneys fall outside public guarantees and are subject to very limited regulation, falling into the category of purely private money. This was the case for USD stablecoins such as Tether until very recently.[62]

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[58] Article 3(1)(7) MiCAR defining "electronic money tokens". Their defining technological feature as crypto assets is that they are based on the distributed ledger technology. Again, following MiCAR, crypto-assets running on the blockchain are defined as "digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology". See Article 3(1)(5).

[59] Aaron Wright and Primavera De Filippi, 'Decentralized Blockchain Technology and the Rise of Lex Cryptographia' [2015] Available at SSRN 2580664.

[60] Martino, 'Monetary Sovereignty in the Digital Era. The Law & Macroeconomics of Digital Private Money' (n 21) 6.

[61] Another on-chain asset issued by traditional financial institutions can qualify as private-public money: tokenised deposits. Currently this asset class is in the experimentation phase. A recent European Banking Authority (EBA) survey found only one existing project of this nature European Banking Authority, 'Report on Tokenised Deposits' (2024) accessed 30 January 2025. The legal status of tokenised deposits is unclear and jurisdiction dependent. However, what is clear is that neither GENIUS nor MiCAR would apply as their application is explicitly excluded in the legislative texts. It is possible or even likely that tokenised deposits. On the possible different designs of tokenised deposits, see Xavier Lavayssière, 'Legal Structures of Tokenised Assets' [2025] European Journal of Risk Regulation 1.

[62] Tether is established in Hong Kong. The newly established Hong Kong regime for stablecoins entered into force on August 1st and it is currently being implemented. The facts reported on Tether in the remainder of this section refers to the regime predating the implementation of the Hong Kong Stablecoins Ordinance (as is the case at the moment of writing).

Since stablecoins are money issued outside the strict oversight of the state, their ability to function as money depends on the design of the asset and the regulatory framework that governs it.[63] We analyse three key features which are jointly necessary to make a stablecoin truly stable: redeemability, convertibility and asset backing. Crucially, ensuring these three features is costly for the issuer, so mandatory regulation is essential to ensure transparency and investor protection. In fact, for the issuers of stablecoins, there would be a clear incentive to limit redemptions and shift towards a less liquid and riskier portfolio of assets, ensuring higher yields on the assets backing stablecoins.

Redeemability means that the issuer of a money-like asset commits to provide a payment in an (typically off-chain) money-like asset on demand. This is a common feature of money-like assets. Central bank deposits would historically often be redeemable in gold or some reserve currency. Bank deposits are typically redeemable in banknotes and coins issued by the government. Similarly, money market funds are typically redeemable and hold highly liquid assets for this purpose. Unregulated stablecoins, in contrast, are often harder to redeem.[64] The original and unregulated version of Tether, for example, offers redemption at a fee for sums starting at USD 100,000. Other users can only convert Tether into other assets via third parties, for example, on a crypto exchange like Coinbase. Convertibility in other on-chain and off-chain assets is also necessary, but not sufficient in itself to make stablecoins stable. It does not ensure liquidity and stability when market liquidity dries up.[65]

Asset backing means that the issuer commits to acquiring low-risk assets to meet redemptions and secure the value of the money in the event that the issuer defaults. This backing structure may enhance safety, but does not give the owner the right to receive that asset on demand from the issuer. Unregulated stablecoins can be backed only by other crypto assets or a commodity like gold. Algorithmic stablecoins are not backed by anything and instead use algorithms and arbitrage incentives to maintain their peg, though these have proven less reliable (e.g. TerraUSD). Already today, by far the majority of stablecoins are "fiat-backed", which means that they are backed by reserves in public money or highly liquid assets like government bonds (See Table 2).

[63] Arner, Auer and Frost (n 27); Adachi and others (n 1).
[64] Adachi and others (n 1).
[65] Markus K Brunnermeier and Lasse Heje Pedersen, 'Market Liquidity and Funding Liquidity' (2009) 22 Review of Financial studies 2201.

Fiat-backed Stablecoins			**Crypto-backed Stablecoin**	**Algorithmic Stablecoin**	**Commodity-backed Stablecoin**	**Total**
Tether (USDT)	*Circle (USDC)*	*All other fiat stablecoins*				
USD	USD	USD	USD	USD	USD	USD
151,614	60,117	29,408	4,682	499	269	247,031

Table 2 – Stablecoins by category in million US Dollar (USD) – May 2025. Source: CoinGecko

2.3 International use of money and stablecoins

The international use of their coins and notes has typically been an important preoccupation of rulers.[66] Because physical assets are difficult to transport across borders, international payment typically relies on credit money. Cross-border payments have historically typically been settled via bills of exchange or other forms of credit. Even in more recent times, the international use of monetary liabilities has been complex, requiring complex and costly intermediation and featuring relevant risks. One example is the postwar Eurodollar market, where "offshore" banks located outside of the US, for instance in London, started to issue USD-denominated deposits without necessarily holding or having access to USD central bank reserves.[67] Similarly, today's SWIFT-based correspondent banking involves a layered network of many intermediaries, which acquire claims and issue liabilities to settle international payments. As payments settle, different parties are exposed to counterparty risk, since one party in the financial transaction could fail to fulfil their obligations.[68]

These 'legacy' mechanisms allow money-like assets to cross borders, but there are good reasons to replace them with on-chain money, either public or private-public. In fact, stablecoins are potentially easier to use internationally. Issuers remain domiciled in a specific jurisdiction. However, users can transfer tokens between wallets, in principle, without either risks of loss or the need to issue the token anew in a foreign jurisdiction. Since payment takes place via a single asset, they do not involve counterparty risk beyond the exposure to the issuer. In principle, a simple app on a phone or computer with access

[66] Jonathan Kirshner, *Currency and Coercion: The Political Economy of International Monetary Power* (Princeton University Press 2020); David M Andrews, *International Monetary Power* (Cornell University Press 2006).
[67] Catherine R Schenk, 'The Origins of the Eurodollar Market in London: 1955–1963' (1998) 35 Explorations in economic history 221.
[68] Susan V. Scott and Markos Zachariadis, 'Origins and Development of SWIFT, 1973–2009' (2012) 54 Business History 462.

to the internet can be used to make payments, with the potential of greatly reducing the cost of international payments.

While every stablecoin issuer is regulated and supervised in its home jurisdiction, a coin issued in one jurisdiction and denominated in a specific currency could in theory be marketed as equivalent in value to coins issued in other jurisdictions and denominated in the same currency. Such equivalence also comes with its own risks in terms of monetary sovereignty, a topic we return to in Sections 3.2 and 4.2.

Stablecoins used across borders are likely to be denominated in a few core currencies, in particular the dollar. Today's global financial system revolves around a few key currencies, with the dollar as by far the most important. In 2022, around 90 % of all FX transactions had the dollar on one side, with the euro in 38 % of transactions.[69] In 2024, 58% of reserve assets are dollar-denominated, 20% euro-denominated.[70] The international dollar not only involves widespread international holdings of USD Treasuries (USD 8 trillion), but also the circulation of USD banknotes (USD 2.4 trillion) and bank deposits issued in dollar "offshore", i.e. by banks domiciled outside the US. [71] This was estimated at USD 12.8 trillion in 2018.[72]

International use of the dollar creates a complex governance challenge because it spans two jurisdictions: the US, which issues the currency, and the jurisdiction where the money is used (and in the case of bank money, created). In fact, the euro was initiated in 1987 to "reduce dependency on the dollar" and strengthen the EU's "scope for monetary policy action" (ECB 2023).[73] Unilateral promotion of USD stablecoins is potentially a grave threat to monetary sovereignty: the ability of the EU and other countries to govern money within their territory.

For now, the role of USD stablecoins in the global monetary order remains marginal. The total market capitalisation of stablecoins, including those in currencies other than the dollar, amounts to around USD 250 billion, roughly 1/10th of the volume of US

[69] All foreign exchange transactions involve two currencies, so the total number sums to 200%, but any given currency can appear at most in 100% of FX transactions.
[70] European Central Bank, 'The International Role of the Euro' (2024).
[71] US Treasury Major Foreign Holders of Treasury Securities (March 2025).
[72] Iñaki Aldasoro and Torsten Ehlers, 'The Geography of Dollar Funding of Non-US Banks' [2018] BIS Quarterly Review December.
[73] Hans-Dietrich Genscher, 'Memorandum Für Die Schaffung Eines Europäischen Währungsraumes Und Einer Europäischen Zentralbank Bundesbank Archiv' (1988) B330/018912 Bundesbank Archive.

banknotes and coins in circulation.[74] Euro-denominated stablecoins, meanwhile, are virtually non-existent, with a market capitalisation of 0.02% (USD 532 million (EUR 473 million), half of which is Circle's EURC (EUR 242/USD 273 million). Just Trump's USD1, currently the 7th largest stablecoin, is valued at USD 2.3 billion.

Even under relatively strong adoption assumptions, the role of stablecoins in the broader financial system may remain limited—at least initially.[75] For instance, suppose all current users of physical cash in the euro area were to replace it entirely with stablecoins. The total volume of euro banknotes in circulation is currently around EUR 1,500 billion. Now consider a scenario of widespread consumer adoption. If every working-age European citizen (aged 15 and above) were to hold an average stablecoin wallet of EUR 500 for regular payments, the total volume of stablecoins would reach approximately EUR 191 billion. If the average wallet were instead EUR 1,000, this figure would rise to EUR 382 billion. While such figures are not negligible, they remain relatively modest compared to the size of current euro area bank deposits. Households hold EUR 5,173.6 billion in overnight deposits and EUR 2,304.2 billion in short-term (up to 3 months) demand deposits. Under the MiCAR, 30% of stablecoin assets must remain in demand deposits, leaving 70% (EUR 267 billion, at most) investable in securities—insufficient to significantly destabilise sovereign bond markets. Total public debt in the euro area is EUR 12,753 billion (with French, German and Italian public debt each in the range of EUR 2,500-3000 billion). This picture would only change with widespread corporate use. If euro area companies were to pay the current EUR 235 billion in monthly wages using stablecoins as well as using them for business-to-business transactions, stablecoin usage could increase significantly. In such a scenario, a notable portion of the EUR 2,450.8 billion in overnight bank deposits currently held by companies might migrate into stablecoins.

A scenario in which wages are paid in stablecoins requires that a large number of potential users (individuals and firms) adopt the new means of payment. This is almost inconceivable without supportive regulation and active promotiong by financial and retail companies. Established banks might be at an advantage in marketing stablecoins (or alternatives) because they already have developed relationships with customers as

[74] Federal Reserve Board, Currency in circulation.
[75] All statistics on bank deposits and macroeconomic figures in this section were obtained from https://data.ecb.europa.eu/

providers of payment services.[76] To reach a wide international market and people unaccustomed to cryptocurrencies, the circulation of stablecoin will likely need support from non-financial companies (either retailers or intermediaries like social media, search engines or web browsers). Here, the US dominance in the global tech sector puts it in a uniquely favourable position.

3. The political economy of stablecoin internationalisation

If stablecoins indeed provide an effective cross-border means of payment, they are potentially crucial instruments of currency competition. To better understand the regulatory divergence between the EU and the US, we analyse how stablecoin issuance affects public and private interests. We first turn to the advantages and disadvantages of issuing a major currency, which grosso modo apply to stablecoin issuance too. We then turn to the many different financial stability implications of stablecoins, which have been widely discussed in the literature.[77] We conclude by analysing how stablecoins impact foreign jurisdictions where they circulate, affecting the effectiveness of domestic legal regimes, crime prevention, tax collection, public borrowing and effectiveness of monetary and financial policy.[78]

The domestic and international costs of stablecoin promotion create clear trade-offs. To understand the trade-off and the allocation of risks and benefits we distinguish the interests of core currency issuers, i.e.: issuers of currency which are used widely across borders, such as the euro and the dollar; and the interests of countries in which the use of foreign currency denominated stablecoins may become widespread Table 3 summarizes such trade-offs which are then analysed in detail throughout the section. In Section 4, we then investigate how the US and EU navigate these trade-offs. Stablecoins and currency internationalisation.

[76] Prudential rules used to prevent traditional banks from issuing stablecoins: Bank Policy Institute, 'Financial Associations Recommend Action to Remove Barriers to Digital Assets Innovation' (2025). However, both under MiCAR and the GENIUS Act, licensed banks are the among the key issuers of regulated stablecoins.

[77] Gorton and Zhang (n 6); Gary B Gorton and Jeffrey Y Zhang, 'Protecting the Sovereign's Money Monopoly' (2023) 75 Ala. L. Rev. 955; Christian Catalini, Alonso de Gortari and Nihar Shah, 'Some Simple Economics of Stablecoins' (2022) 14 Annual Review of Financial Economics 117; Arner, Auer and Frost (n 27).

[78] Agata Ferreira, 'The Curious Case of Stablecoins—Balancing Risks and Rewards?' (2021) 24 Journal of International Economic Law 755; Iñaki Aldasoro and others, 'Stablecoins, Money Market Funds and Monetary Policy' (2025) 247 Economics Letters 112203; Christina Parajon Skinner, 'Coins, Cross-Border Payments, and Anti-Money Laundering Law' (2023) 60 Harv. J. on Legis. 285. Andrea Minto, 'Crypto-Assets and Money Laundering: Perspectives in EU Legislation'.

	Core currency issuers	**Foreign stablecoin users**
	Countries whose currency is used for stablecoins' denomination	*Countries where the use of foreign-denominated stablecoins may become widespread*
Benefits	▪ Seigniorage revenues ▪ Inflow for the financial and digital services sectors ▪ Ease of public debt refinancing ▪ Flight -to quality during crises ▪ Dominant position in international business transactions	▪ Stable currency for residents ▪ Cheaper transfer of remittances
Costs	▪ Vulnerability to capital flights or a change in public sentiment ▪ Need to remain a credible global gatekeeper to avoid capital flight ▪ Exchange rate appreciation ▪ Loss of monetary sovereignty (loss of central bank control on money supply) ▪ Financial stability risk	▪ Loss of monetary sovereignty ▪ Financial stability risk ▪ Risk dumping from core currency issuers, e.g., through smart contracts fungibility

Table 3 – Trade-offs in stablecoin adoption

Promoting the internationalisation of a currency comes with both significant advantages and disadvantages for the issuing country. We distinguish four major advantages for core currency stablecoin issuers. [79] In discussing costs and benefits, we mainly refer to the EU and US , but the arguments also apply, *mutatis mutandis*, for other currencies. First, a country issuing an international currency earns seigniorage, which is the profit derived from issuing currency.[80] In the case of stablecoins, these profits do not accrue to the government, but to the firm issuing the stablecoin. Since stablecoins are typically unremunerated, they are essentially an interest-free loan to the issuer.[81] The promotion of stablecoins thus boosts the US's financial services sector, in particular the crypto segment. The widespread adoption of USD stablecoins could also strengthen its

[79] Markus K Brunnermeier and Sebastian Merkel, 'Preserving the Global Safe Asset Status of US Treasuries and the US Dollar Is in Everyone's Interest' (*Peterson Institute for International Economy*, 18 April 2025) <https://www.piie.com/blogs/realtime-economics/2025/preserving-global-safe-asset-status-us-treasuries-and-us-dollar#:~:text=Supplying%20global%20reserve%20assets%20has,term%20disadvantage> accessed 24 September 2025; Gita Gopinath and others, 'Dominant Currency Paradigm' (2020) 110 American Economic Review 677; Barry Eichengreen, Arnaud Mehl and Livia Chiţu, 'Mars or Mercury? The Geopolitics of International Currency Choice' (2019) 34 Economic Policy 315.

[80] David Bholat and Robin Darbyshire, 'Accounting in Central Banks' (Bank of England 2016).

[81] These are still held because of the non-pecuniary premium of holding assets perceived as safe, albeit privately produced. Marcin Kacperczyk, Christophe Périgno and Giullame Vuillemey, 'The Private Production of Safe Assets' (2021) 76 The Journal of Finance 495.

dominance in digital services. Being more competitive in these markets is currently a clear policy objective of the EU, but this has not resulted in expanding the domestic crypto-asset sector.[82]

Second, governments and firms from jurisdictions with an international currency can more easily issue debt denominated in their domestic currency.[83] This advantage applies in particular to stablecoins backed by high-quality assets, typically government debt. In this way, the international promotion of stablecoins makes it cheaper to borrow. This can help offset the loss of reserve assets status of USD debt for institutional investors and foreign central banks. The EU's lack of safe assets has hindered the international use of its currency, preventing it from reaping the benefits of international demand for EUR debt.[84] In theory, EUR stablecoins could help lower domestic borrowing costs.

Third, widespread international use of a currency provides it with a flight-to status that shields the economy from external shocks. It reduces the risk of balance-of-payments crises and provides more leeway in monetary and fiscal policy. As issuer of safe haven assets, capital will typically flow into the jurisdiction during economic downturns and financial crises, providing a desirable counter-cyclical stabilisation.[85] Widespread international use also prevents dependence on a foreign currency that makes states vulnerable to external interference, which the EU today is widely seen as vulnerable to.[86]

Fourth, a widely accepted international currency grants significant leverage in global affairs. It provides the issuing country with influence over international financial markets and payment systems and can be weaponised in various ways.[87] Less tangibly, issuing an international currency is a way to export commercial and political values.[88]

However, the issuance of an international currency is not unambiguously advantageous, which also translates into three main disadvantages: dependence on external investors, the acquisition of new responsibilities for the global financial system

[82] Mario Draghi, 'The Future of European Competitiveness' [2024]
[83] Krishnamurthy and Vissing-Jorgensen (n 36).
[84] Ethan Ilzetzki, Carmen M Reinhart and Kenneth S Rogoff, 'Why Is the Euro Punching below Its Weight?' (2021) 35 Economic Policy 405.
[85] Markus K Brunnermeier, Sebastian A Merkel and Yuliy Sannikov, 'Debt as Safe Asset' (National Bureau of Economic Research 2022).
[86] See, for instance, Ellie Geranmayeh and Manuel Lafont Rapnouil, 'Meeting the Challenge of Secondary Sanctions' (2019) accessed 24 September 2025.
[87] Henry Farrell and Abraham Newman, Underground Empire: How America Weaponized the World Economy (Random House 2023); Quaglia and Verdun (n 3).
[88] Anu Bradford, The Brussels Effect: How the European Union Rules the World (Oxford University Press 2020).

and exchange rate appreciation. First, internationalisation means a state's financial system is more integrated with global capital flows, creating specific vulnerabilities. The US, as a large net borrower, remains vulnerable to sudden shifts in international sentiment or capital flight.[89] International use of USD stablecoins, in particular when driven by retail customers, might be particularly vulnerable to such shifts in sentiment.

Second, maintaining an international currency requires the issuing state to maintain credibility concerning price stability and also places some constraints on weaponisation. Foreign states, in particular, may seek to reduce their vulnerability to an unreliable issuer of an international currency.[90] China, for example, has in recent years reduced its net purchase of US debt and sought to increase its share of imports, in particular energy, invoiced in RMB. T internationalise a central bank also needs to provide a backstop to global financial markets, as the Fed has done through its swap lines.[91] The ECB has historically been particularly hesitant to take on the geopolitical tasks that come with widespread international euro use.[92]

Finally, and perhaps surprisingly absent from the debates within the MAGA movement on USD stablecoins, currency internationalisation leads to exchange rate appreciation.[93] As money flows into the economy to buy domestic financial assets, imports become cheaper and exports more expensive. The MAGA movement has typically blamed such dynamics for the relative decline of the US manufacturing sector. For example, Miran argues that excessive demand for USD reserve assets leads to overvaluation of the dollar, causing "persistent deviations from the equilibria in currency markets that would balance trade".[94] Import tariffs are meant to be a partial solution to this problem, in part as a means to coerce other states into intervening to weaken the dollar.[95] The creation of new demand for stablecoins, of course, counteracts these policy objectives.

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[89] Kenneth Rogoff, Our Dollar, Your Problem: An Insider's View of Seven Turbulent Decades of Global Finance, and the Road Ahead (Yale University Press 2025).
[90] Rosa and Larsen (n 1).
[91] Daniel McDowell, Brother, Can You Spare a Billion?: The United States, the IMF, and the International Lender of Last Resort (Oxford University Press 2017); Aditi Sahasrabuddhe, 'Drawing the Line: The Politics of Federal Currency Swaps in the Global Financial Crisis' (2019) 26 Review of International Political Economy 461.
[92] Murau and van 't Klooster (n 21).
[93] Matthew C Klein and Michael Pettis, Trade Wars Are Class Wars: How Rising Inequality Distorts the Global Economy and Threatens International Peace (Yale University Press 2020).
[94] Stephen Miran, 'A User's Guide to Restructuring the Global Trading System' (2024).
[95] ibid.

The net effect of the advantages and disadvantages of using stablecoins to promote currency internationalisation resists easy quantification.[96] However, the advantages are typically held to outweigh the disadvantages, in particular when the sectoral effect of currency appreciation is mitigated. To better understand regulatory divergence between the EU and US, we also need to consider the financial stability implications of stablecoins.

3.1 Stablecoins and financial stability

Even if designed for international use, stablecoins unavoidably need to circulate in and therefore have implications for the domestic financial system. Stablecoins create new risks that stem from the rules of redemption, conversion and asset backing (see Table 1). This creates important trade-offs for policymakers that shape the drafting of stablecoin legislation.

The financial stability risks of stablecoins go back to the two features that determine the money-like nature of assets: stable value and ease of payment.[97] Due to their high ease of payment, stablecoins can potentially acquire widespread use despite lacking particularly strong stability of their nominal value.[98] Since stablecoins are not fiat money, they only remain stable as long as their issuer is believed to be able to promptly satisfy redemption requests.[99] How stablecoin issuers manage redemptions and ensure adequate backing through high-quality assets has important consequences for stablecoin users and financial markets at large. These consequences apply to other countries where stablecoins are used, but unavoidably also to the domestic economy.

First, there is a risk of runs on stablecoins.[100] Stablecoins are exposed to liquidity and duration risk. Even when backed by ostensibly safe and liquid assets, there is a mismatch between the liquidity and maturity of their assets and those of their liability. Users may be unable to redeem their holdings during periods of stress, and stablecoins may not always be accepted at par.[101] Unlike banks, stablecoins can de-peg from their reference currency in times of stress. This safety valve for stablecoin issuers has, however, a cost for

[96] Nils Gerresheim and Max Krahé, 'Euro Als Leitwährung? Ja, Aber …' (2025) <https://dezernatzukunft.org/en/euro-als-leitwahrung-ja-aber/#_ftn2> accessed 24 September 2025.
[97] See *supra* Section 2.1
[98] This is a pivotal insight from Awrey (n 1).
[99] In other terms, as long as the stablecoin remains information insensitive. See Tri Vi Dang, Gary Gorton and Bengt Holmström, 'The Information View of Financial Crises' (2020) 12 Annual Review of Financial Economics 39; Holmstrom (n 38).
[100] Gorton and Zhang (n 6).
[101] Barry Eichengreen, My T Nguyen and Ganesh Viswanath-Natraj, 'Stablecoin Devaluation Risk' (2025) 31 The European Journal of Finance 1469.

users as it reduces their real value, as has occurred with unregulated stablecoins like Tether.[102] It also makes stablecoins potentially subject to speculative attacks, like fixed exchange rates.

De-pegging events can happen swiftly, akin to currency crises, especially if a shock reduces the value of the stablecoin's asset base. Central banks may then be pressured to intervene to stabilise key asset markets, as happened as recently as the March 2020 crisis experienced by money market funds (MMFs),[103] The risk is further magnified when stablecoins are themselves used as collateral (as permitted under the US GENIUS Act).

Second, stablecoins can affect market liquidity and induce large portfolio shifts. Similar to MMFs, stablecoin issuers are incentivised to search for yield while maintaining asset liquidity. This may result in abrupt portfolio reallocation across jurisdictions in response to interest rate differentials. For example, euro-denominated stablecoin issuers may shift holdings from euro area sovereign debt to US Treasury bills if US interest rates rise. Although banks face similar pressures, the effect is less pronounced due to their focus on loan-based asset portfolios. Stablecoin-driven asset shifts could affect Eurozone bond markets, potentially forcing the ECB to follow the FED's monetary stance or to intervene in the short-term debt market by purchasing securities. The extent to which this is possible depends on the liquidity requirements embedded in stablecoin regulation.[104]

Third, the use of bank deposits to back stablecoins can create liquidity risk for banks. Stablecoin issuers not only invest in short-term securities but also deposit money in bank accounts. Stablecoin issuers' withdrawals from bank deposits in pursuit of higher yields could strain bank liquidity. This dynamic is comparable to the infamous 19th-century US pyramidal banking system, where reserve withdrawals from city banks triggered systemic crises.[105] Historically, the Federal Reserve was established partly to counteract such destabilisation by providing emergency liquidity.

Even if stablecoins are not backed by bank deposits, customers could still affect bank funding by shifting deposits into stablecoins. In particular, they could do this in a crisis

[102] Barry Eichengreen and others, 'Currency Internationalization with Chinese Characteristics: Is Capital-account Convertibility Required for the Renminbi to Acquire Reserve-currency Status?' (2024) 27 International Finance 102; Carlos Cantú, Jon Frost and Thomas M Noone, 'Some Perspectives on the Regulation of Stablecoins' (2025) 87 Law and Contemporary Problems 129.
[103] Lei Li and others (n 50).
[104] See Section 4.1.5.
[105] Matthew Jaremski and David C Wheelock, 'The Founding of the Federal Reserve, the Great Depression, and the Evolution of the U.S. Interbank Network' (2020) 80 The Journal of Economic History 69.

when confidence in banks is low. This dynamic would echo historical precedents, in particular the banking crises of the Great Depression in the 1930s.[106] At that time, deposits flowed from unregulated commercial banks to government-backed savings institutions.

While this risk has been widely discussed in the context of CBDC and stablecoins,[107] its relevance may be more limited today. Modern banks operate in a vastly more regulated environment and are subject to much stricter capital, liquidity, and supervisory requirements than those of the 1930s. Furthermore, stablecoins in the EU currently do not pay interest, which reduces their attractiveness compared to traditional deposits, especially in normal times. However, recent episodes underscore that these dynamics cannot be entirely ruled out. For instance, during the 2023 banking turmoil in the United States, there was a sudden and substantial shift of deposits from a few banks to prime money market funds (MMFs).[108] In the very same turmoil, USD Circle was de-pegged because of the idiosyncratic risk related to the demise of Silicon Valley Bank, where Circle held the majority of its deposits.[109]

In sum, states that judge internationalisation to be desirable face a trade-off when navigating these financial stability risks. They can either promote widespread adoption of stablecoins, thereby creating various vulnerabilities in the domestic financial system. However, they can also regulate stablecoins more strictly to mitigate these vulnerabilities and maintain monetary sovereignty, potentially hindering their widespread international use.

To further complicate the trade-offs, the technological features of the blockchain can allow some level of financial stability risk externalisation through the so-called 'stablecoin fungibility'. This issue has been overlooked by the academic debate, but it can have extremely adverse consequences.[110] Technological fungibility of stablecoins means that issuers operating across jurisdictions can issue coins under different regulatory frameworks through a single smart contract. This makes the stablecoins issued under different

[106] Eric Monnet and Stefano Ungaro, 'The Real Effects of Bank Runs. Evidence from the French Great Depression (1930-1931)' (CEPR Discussion Papers 2021); Victor Degorce and Eric Monnet, 'The Great Depression as a Savings Glut' (2024) 84 The Journal of Economic History 874.
[107] Anna Grodecka-Messi and Xin Zhang, 'Private Bank Money vs Central Bank Money: A Historical Lesson for CBDC Introduction' (2023) 154 Journal of Economic Dynamics and Control 104707.
[108] Huberto M Ennis, 'Perspectives on the Banking Turmoil of 2023' [2023] Federal Reserve of Richmond, Economic Brief.
[109] Luca Galati and Francesco Capalbo, 'Silicon Valley Bank Bankruptcy and Stablecoins Stability' (2024) 91 International Review of Financial Analysis 103001.
[110] Richard Portes, 'The stablecoin loophole that could expose the EU' (25 July 2025), Financial Times, 25 July, available at https://www.ft.com/content/3dd627ff-d091-4141-9c48-5d63a15eb879.

jurisdictions fungible. Imagine that one jurisdiction adopts a lax and aggressive regulatory framework, facilitating widespread adoption but creating financial stability vulnerabilities, while the other adopts a very stringent regulation, safeguarding its financial stability and monetary sovereignty. In times of crisis, the holders of the riskier stablecoins who fear de-pegging will switch to the less risky coin to benefit from the safeguards on redemption and convertibility offered by a stringent jurisdiction.

Functionally, fungibility creates channels for cross-border risk transfer. In times of stress, holders of riskier tokens can instantaneously exchange them for tokens issued under the more conservative regime. This "risk offload" dynamic transforms EU-compliant stablecoins into a safe harbour for volatility originating abroad. This way, jurisdictions promoting currency internationalisation through stablecoins can dump (part of) the domestic financial stability risk they create to another jurisdiction, providing more protection to stablecoin holders. This issue is further examined in Section 4.2.3, where this fungibility paradox is analysed in its regulatory dimension.

3.2 Currency denomination and cross-border circulation

While we focus here on the political economy considerations for core currency issuers, stablecoin internationalisation also impacts third countries. The widespread adoption of a foreign international currency can lead to "dollarisation" (or "euroisation," "yuanisation," etc.), where the foreign currency effectively replaces the domestic one in various functions. Stablecoins could promote "digital dollarisation", with consequences similar to traditional dollarisation.[111] These effects, desirable or undesirable, can in turn inform the strategic calculus of core currency issuers.

Core currency stablecoins may have advantages for third countries. For one, it may contribute to financial inclusion. While 76% of the global population holds a financial account, ownership is skewed towards high-income economies.[112] In many countries, it is below 50%, with mobile money dominating recent account growth.[113] For such users,

[111] Maurice Obstfeld and Douglas A Irwin, Floating Exchange Rates at Fifty (Peterson Institute for International Economics 2024). For an earlier reference on the topic, see Guillermo A Calvo, 'On Dollarization' (2002) 10 The Economics of Transition 393. For a specific application, see Mauricio Vargas and Jesus Sanchez, Taming Financial Dollarization: Determinants and Effective Policies–The Case of Uruguay (International Monetary Fund 2023).
[112] Asli Demirgüç-Kunt and others, The Global Findex Database 2021: Financial Inclusion, Digital Payments, and Resilience in the Age of COVID-19 (World Bank Publications 2022).
[113] ibid.

stablecoins are an attractive and potentially easily to access alternative to the banking system.

Second, residents would also acquire access to a more stable means to save money and thereby reduce the impact of domestic shocks, for example, due to financial instability or inflation, on the domestic economy. In theory, this makes the economy less vulnerable to external shocks from exchange rate depreciation.[114]

Finally, easily accessible stablecoins may also facilitate international transactions by making payments faster and cheaper.[115] The global average cost of $200 in remittances currently stands at 6.6%, far above the Sustainable Development Goal of 3%.[116] For many destinations in the Global South, these costs are much higher still. Core currencies can actually channel cryptomercantilistic policies promoting private stablecoins also indirectly, for instance, providing them with favourable tax treatment.. For instance, the US 'One Big Beautiful Bill' Act introduces a 1% tax on all money transfers from the United States to other countries in the form of cash, money orders, bank cheques and 'similar physical instruments' – i.e., on remittances. Stablecoins are currently exempt from this tax, encouraging US residents to use stablecoins to send money abroad.[117]

These advantages of stablecoins are likely outweighed by the disadvantages of widespread domestic use of a foreign currency. The disadvantages also increase with the share of transactions conducted in foreign-currency-pegged stablecoins.

The most pressing disadvantages all fall within the broad category of monetary sovereignty. Today's states are crucially reliant on their national currencies for achieving their economic policy objectives. They collect taxes in that currency and often closely monitor bank payments to verify compliance with taxation. States also prefer to borrow in their own currency. To the extent that their domestic economy funds itself in its own currency, the state can use monetary policy to steer the business cycle.[118] As foreign currencies become more widespread within their territory, the ability of states to do all

[114] Florencia M Fares, Emiliano Libman and Guido Zack, 'Real Dollarization, Currency Substitution, and Inflation Control' [2024] Journal of Post Keynesian Economics 1.
[115] Bindseil and Pantelopoulos (n 9).
[116] World Bank, 'Remittance Prices Worldwide Quarterly: Issue 51' (2024).
[117] One Big Beautiful Bill Act of 2025, s. 4475. The new taxation regime will officially enter into force on January 1st, 2026. For this interpretation, see Rebeccah Fontaine, 'Implications of the Remittance Tax in the GOP Reconciliation Bill' (*Eisneramper*, 13 August 2025) <https://www.eisneramper.com/insights/tax/remittance-tax-implications-obbba-0725/> accessed 25 September 2025.
[118] Obstfeld and Irwin (n 111).

these things weakens. This raises new risks for the effectiveness of domestic legal regimes, crime prevention, tax collection, public borrowing and effectiveness of monetary and financial policy. Stablecoins may circulate within a country even if denominated in foreign currencies, creating risks for monetary sovereignty pertaining to monetary policy autonomy, for users subject to exchange rate fluctuations and for the management of the international monetary system.

A further risk arises when stablecoins are denominated in a foreign currency rather than the domestic currency in which users conduct most of their everyday transactions. This exposes stablecoin to exchange rate fluctuations between the stablecoin's reference currency and its domestic currency—potentially leading to losses or increased volatility in its purchasing power. For example, the use of dollar-pegged stablecoins by EU citizens and businesses for payments may lead to holdings in USD-denominated digital cash, exposing users to exchange rate volatility. Dollar depreciation would then diminish the euro-converted value of such holdings, with negative wealth effects on consumption and investment.

A jurisdiction that sees itself as exposed to economic and social instability in third countries will likely weigh these potential consequences before promoting widespread international use of stablecoins denominated in its currency.

4. The EU MiCA Regulation and the US GENIUS Act: a comparative analysis

Money is not a strictly defined category but rather takes various forms; several assets can have money-like characteristics. As we saw in section 2, achieving this status depends on the support of the applicable legal framework. In other terms, money-like characteristics – chiefly stability and ease of use in payments – are legally constructed.[119] However, as we showed in the previous section, the political economy of stablecoin internationalisation involves winners and losers.

In this section, we compare the two flagship stablecoin regimes: the EU regime for stablecoins enshrined in MiCAR and the new US regime of the GENIUS Act.[120] The

[119] Pistor (n 39) 321.
[120] See, respectively, Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto assets. OJ L 150, 40 and S. 1582 – 119TH Congress (2024-2025): Guiding and Establishing National Innovation for US Stablecoins Act - GENIUS act (2025, July 14th).

comparison highlights fundamental differences between the policy goals pursued by the EU and the US, mirroring the attitude of the two policymakers towards private stablecoins.[121] We show that at crucial junctures, the EU legal framework prioritises safeguarding monetary sovereignty and domestic financial stability. In this way, MiCAR seeks to ring-fence the EU's financial and monetary system from outside interference. By contrast, the US pursues a strategy of cryptomercantilism in the promotion of widespread stablecoin use. Its legislative approach safeguards the profitability and flexibility of stablecoin issuers while explicitly supporting their use for cross-border transactions. The US GENIUS Act prioritises innovation in the private sector and widespread adoption with limited strings attached – though possibly still sufficient for stablecoins to be assumed to be reliable by the public.[122]

Against this backdrop, we not only compare legal frameworks, but also explore how they interact, with a specific focus on the 'monetary safeguards' enshrined in MiCAR to defend the monetary sovereignty and financial stability of the European Union. The regulatory regime now prohibits financial institutions from offering non-MiCAR-compliant stablecoins to the public. The ECB also has surprisingly underdiscussed, but crucial powers under MiCAR to cap the issuance of non-euro stablecoins. We discuss technological fungibility, highlighting potential workarounds and enforcement problems that may limit the effectiveness of these monetary safeguards.

4.1 The legal construction of money-like stablecoins in the EU and the US

We analyse seven key regulatory variables shaping the money-like characteristics of stablecoins. We first turn to ease of use, focusing specifically on (1) the type of issuers and their licensing regime, which determines the nature of issuers. We then turn to conditions that pertain to stable value: (2) the rules on issuance and redemption, (3) significant issuers, (4) the treatment of reserve assets, (5) core prudential requirements and (6) rules on supervision and enforcement. We conclude by comparing (7) rules on the cross-border reach of the legal regime. We compare the different decisions made by the EU and US policymakers along these dimensions, showing how they promote either monetary

[121] Edoardo D Martino, 'Cryptocurrencies and Stablecoins Regulation' in Edoardo David Martino, Hossein Nabilou and Alessio Maria Pacces (eds), *Comparative Financial Regulation* (Edward Elgar Publishing 2025).
[122] Holmstrom (n 38).

sovereignty or cryptomercantilism. Table 4 provides an overview of the key similarities and differences; the background legal details are expanded in the comparative tables in the Appendix.

REGULATORY VARIABLE	**EU MiCAR**	**US GENIUS ACT**
ISSUERS AND LICENSE	▪ Existing licenses – Credit Institutions or E-Money Institutions ▪ Notification of the intention to issue	▪ Insured depository institution (subsidiary); Federal (or State) qualified non-bank issuer; ▪ Stablecoin-specific authorization
ISSUANCE AND REDEMPTION	▪ Defined as electronic money ▪ Redemption at par, at any time with no fee ▪ Interest payment is prohibited	▪ Treated as cash equivalent ▪ Right to redemption at par ▪ Publication of redemption policy, including fees, if any ▪ Interest payment is prohibited
SIGNIFICANT ISSUERS	▪ Quantitative and qualitative criteria ▪ Mandatory or voluntary designation ▪ Stricter regime & centralised supervision	▪ One-size-fits-all at Federal level ▪ Large (>10 mil $) State issuers can be attracted in the Federal regulatory framework
RESERVES AND ASSET SAFEGUARDS	▪ 30% of funds deposited in a bank account with the same denomination of the pegged currency ▪ Investment only in high quality liquid assets (public exposures or covered bonds) ▪ Special rules and procedures for crisis management	▪ Requirement to maintain reserves at least on a 1 to 1 basis ▪ Wide range of possible reserve assets
CORE PRUDENTIAL REQUIREMENTS	▪ Preventive capital (2% of CET1 capital) and liquidity (30% of funds deposited in a bank account) requirements ▪ Top-up for significant issuers	▪ Tailored-made requirements to ensure on-going operations (no specific preventive goal) ▪ Determination by the Primary Regulator
SUPERVISION AND ENFORCEMENT	▪ National Competent Authority ▪ Centralised supervision by EBA for significant issuers	▪ Need to determine the "Primary Federal Regulation" ▪ For depository institutions: tither the OCC, the FDIC or the FED ▪ For non-bank issuers always the OCC
EXTRATERRITORIAL REACH AND EQUIVALENCE	▪ No equivalence regime ▪ No foreign stablecoins can be offered (reverse solicitation exemption)	▪ The Secretary of the Treasury can enter into reciprocal agreements, also on an *ad hoc* basis ▪ Foreign issuers must be registered with the OCC

Table 4 – A comparative overview of the MiCAR and GENIUS Act

4.1.1 Stablecoin issuers and licensing regime

The first regulatory variable concerns who is allowed to issue stablecoins (see Table 5 in the Appendix). This choice determines the regulatory framework applicable to the issuer and defines the scope of supervision. In the EU, only institutions licensed as credit institutions or electronic money institutions are allowed to issue stablecoins in the form of e-money tokens.[123] The GENIUS Act also has a two-track system. A first track for insured depositary institutions that issue payment stablecoins through a subsidiary; a second for non-bank qualified institutions that obtain an ad-hoc license to this end. Allowing 'traditional' banks to issue stablecoins can be interpreted as a way to incentivise those institutions to innovate.[124] A second similarity is that non-banks have the possibility to issue stablecoins, allowing start-ups to enter the market. There are also striking differences. Appropriately licensed European issuers can issue stablecoins and merely need to notify the competent authority of their intention to issue. In contrast, in the US, banks can only offer stablecoins after an explicit authorisation for this purpose.

Furthermore, in the EU, non-banks can issue stablecoins only if they are licensed under the existing regime for electronic money institutions.[125] This choice serves to create a level playing field with legacy institutions.[126] In the US, non-banks can seek a stablecoin-specific license.

4.1.2 Stablecoins issuance and redemption

The second regulatory variable concerns the credibility of the promise that a stablecoin issuer can make: issuance and redemption. The more unconditional the possibility of issuing stablecoins and the more credible the conditions for their redemption are, the more money-like the promise is. At the same time, the more money-like the promise is, the more difficult it is to keep it. Both regimes treat the matter in a functionally similar

[123] E-money token is the EU law jargon to indicate stablecoins pegged to official currencies (Article 3(1)(7) MiCAR), in contrast to asset-referenced tokens, which are stablecoins that can be pegged to (a combination of) values or rights (Article 3(1)(6) MiCAR). For the sake of simplicity and ease of comparison, when discussing MiCAR we use the term 'stablecoins' to refer to e-money token.

[124] Peter Tufano, 'Financial Innovation' in George Constantinides, Milton Harris and René M Stulz (eds), *Handbook of the Economics of Finance*, vol 1 (Elsevier 2003) 318.

[125] Edoardo David Martino, 'E-Money Tokens: Licensing and Substantive Regime' in Annunziata. Filippo and Rosa Lastra (eds), Markets in Crypto-Assets Regulation (Oxford University Press, forthcoming).

[126] See, for instance, recent announcement of EU banks to create a consortium and issue a Euro-pegged stablecoins. Tom Sims, Tommy Reggiori Wilkes and Valentina Za, 'European Banks to Launch Euro Stablecoin in Bid to Counter US Dominance' (Reuters, 25 September 2025) <https://www.reuters.com/business/finance/big-european-banks-form-company-launch-stablecoin-2025-09-25/> accessed 25 September 2025.

way, once different legal cultures are accounted for (see Table 6 in the Appendix). Both the EU and the US mandate a 1-to-1 redemption at par in off-chain assets and prohibit stablecoins from being interest-bearing.[127] For instance, stablecoin issuers can activate redemption plans or redemption gates based on their recovery plan. No safeguards of this sort are included in the GENIUS Act.

Clear rules on redemptions give stablecoins legitimacy vis-à-vis the public and the financial system. However, as we will still see, the fulfilment of such a promise is not safeguarded in the same way in the EU and the US regime, with the former being much more conservative and mindful of potential stability concerns.

4.1.3 Special regimes for 'significant' stablecoins

The first regulatory variable where the EU and US really diverge concerns the treatment of 'significant' issuers (see Table 7 in the Appendix). The GENIUS Act features a one-size-fits-all approach, where requirements are generally the same for small and systemically significant issuers. The only exception to this is the possibility to attract State-regulated issuers within Federal regulation and supervision if they have an outstanding issuance of over USD 10 million and the State regime is not considered 'substantially similar' to the Federal one.

In contrast, issuers in the EU that are considered significant for their size, volume or systemic relevance are subject to a significantly stricter regime, especially in terms of 'reserves and asset safeguards' and 'core prudential principles'. Moreover, 'significant issuers' are also supervised centrally by the European Banking Authority, rather than by the National Competent Authority. This can make a difference in terms of enforcement and is further discussed in this Section. One key problem is to set the right threshold for triggering the tighter regime. Currently, there are both quantitative and qualitative thresholds according to which the EBA should classify stablecoin issuers as significant. At the moment of writing, no EMT issuer has such a classification.[128] This may be due to the phase-in period of the new rules, but if this persists, it may create an uneven playing field across the EU. It will also limit scrutiny of financial stability and monetary sovereignty issues.

[127] The promise to convert at par applies at all times but in a stressed scenario MiCAR softens such a promise. See Section 4.1.4.

[128] The interim ESMA register is available at < https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/markets-crypto-assets-regulation-mica>

4.1.4 Reserves and assets safeguards

So far, we have analysed features pertaining to the type of promise that can be made and who can make such a promise, including the applicable regulatory regime. The upcoming three regulatory variables define how the stablecoin issuer must pledge to keep such a promise.

To ensure that the 1-to-1 redeemability promise can be fulfilled, the rules on permissible reserve assets are the first key element to look at. These rules are intended to ensure that, in good times, redemption requests can be satisfied in an orderly manner. In bad times, these rules govern the status of stablecoin holders vis-à-vis the issuer itself as well as the other creditors of the issuer. As discussed above, both regimes require stablecoins to be backed by collateral worth at least 100% of the issued stablecoins. However, the two regimes differ dramatically on what qualifies as reserves (see Table 8 in the Appendix). The EU regime is much stricter on the possibility of investing the reserve assets. 30% of the reserve assets that need to remain fully liquid are deposited in a bank account, while the rest can only be invested in 'highly liquid financial instruments'. Only government and central bank exposures and high-quality covered bonds qualify as eligible reserve assets.

The US regime gives issuers more flexibility and allows them to take more risk. Issuers can invest in a wide range of liquid products, including treasuries, money market fund shares, repos and reverse repos backed by liquid assets.[129] This makes EU stablecoin issuers more resilient to liquidity shocks, limiting their ability to engage in bank-like qualitative asset transformation. All else being equal, that US issuers can invest their funds in less liquid instruments promising a higher return has two consequences. It grants a competitive advantage to non-EU licensed issuers in good times. It also increases their potential negative externalities in times of stress. Therefore, these divergences may create competitiveness issues for EU vis-à-vis non-EU licensed issuers. Lower profits may have stopped Tether from applying for an EU license, since Tether does not comply with such a stringent liquidity regulation.[130]

[129] Interestingly, reserves can also be held in tokenised form, potentially boosting the overall crypto economy. See Table 8 in the appendix.

[130] See https://tether.to/en/transparency/?tab=reports. Tether reserves include, among others, precious materials, Bitcoins, Secured Loans, Money Market Funds Shares. All these reserve assets would not be eligible under MiCAR. For an analysis of the Tether reaction to MiCAR corroborating our interpretation, see Maximilian Santner and Alfred Taudes, 'The Impact of MiCAR Regulation on the Euro Stablecoin Market' (WU Vienna University of Economics and Business 2025).

A further relevant difference is that the EU regime requires that issuers prepare for 'bad times', with issuers that are required to have early crisis management tools in place, including tools already experimented with MMFs to stop runs, such as liquidity fees, redemption gates and suspension.[131] This means that the promise of redemption at par can be softened during a crisis to stop bank runs. Such a possibility must be prepared ex ante through recovery and redemption plans drafted by the issuers and notified to the competent authorities.[132] In contrast, the GENIUS Act focuses solely on the bankruptcy treatment of the holders of stablecoins, giving them priority over all other creditors in insolvency proceedings.

4.1.5 Core prudential requirements

Prudential requirements complement the regulation of reserve assets. They represent the toolkit to limit the operation and the risk profile of issuers, requiring them to build excess capacity in good times to withstand troubled times. Strict prudential requirements strengthen the reliability of claims in bad times, irrespective of any bailout expectations. At the same time, such requirements can be perceived as burdensome for the issuer in good times. Following a well-established literature on banking regulation, prudential requirements are socially inexpensive but privately expensive.[133]

The prudential treatment of stablecoin issuers represents the source of the most pronounced divergence between the MiCAR and the GENIUS Act (see Table 9 in the Appendix). In the proposed US regime, both in terms of capital and liquidity requirements, the GENIUS Act refers to secondary regulation for necessary requirements on a tailor-made basis and only to the extent necessary to ensure orderly operation. In contrast, under MiCAR, issuers – especially when designated as significant – must comply with quantitatively and qualitatively defined preventive requirements.

The divergence between the two regimes is particularly relevant when it comes to the aim pursued by prudential requirements: the EU's aim is preventive, whereas the US just aims to ensure operational capacity. This squares with our general claim of the US pushing a cryptomercantilist approach, boosting the global reach and dominance of

[131] Rafael Matta and Enrico Perotti, 'Pay, Stay, or Delay? How to Settle a Run' (2024) 37 The Review of Financial Studies 1368.
[132] See Article 46 and 47 MiCAR.
[133] Anat Admati and Martin Hellwig, *The Bankers' New Clothes: What's Wrong with Banking and What to Do about It* (Princeton University Press 2014); Anat R Admati and others, 'Fallacies, Irrelevant Facts, and Myths in the Discussion of Capital Regulation: Why Bank Equity Is Not Socially Expensive' (2013).

dollar-denominated stablecoins. Conversely, from a prudential perspective, this light and laissez-faire approach increases the overall financial stability risk associated with stablecoins. Accordingly, the lack of stringent prudential requirements increases the likelihood of bailouts, especially if stablecoins take on a systemic role in the financial and payment system.[134]

4.1.6 Supervision and enforcement

The last substance-related regulatory variable concerns the rules on supervision and enforcement. This complements other requirements and safeguards as it defines the ability of public authorities to detect risks and potential violations early on and ensure compliance (see Table 10 in the Appendix). Both regimes adopt supervisory approaches aligned with their respective supervisory cultures and architecture.[135] The enforcement powers are, on paper, more invasive under MiCAR. However, deriving implications from stated supervisory powers may be misleading since there is a documented and persistent tendency to delay intervention and refrain from action in the financial system.[136] One potential vulnerability of the MiCAR supervisory architecture is its two-tier structure, with National Competent Authorities in charge of the supervision of stablecoin issuers and the central supervisor, the European Banking Authority, only in charge of promoting supervisory convergence and cooperation, and to directly supervise significant stablecoin issuers.[137]

On the US side, supervision is extremely fragmented. The key concept is the 'primary federal payment stablecoin regulation' which, depending on the nature of the issuing entity, can be the Federal Reserve Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation or, for State-issued stablecoin, the relevant State supervisory agency.[138] Notably, for non-bank stablecoin issuers, the GENIUS Act designates the OCC as US primary regulator and supervisor. The OCC is under the (political) control of the Secretary of the Treasury, despite several independence

[134] Pistor (n 39).
[135] Menelaos Markakis, 'The Institutional Architecture of Financial Regulation and Supervision' in Edoardo D Martino, Hossein Nabilou and Alessio M Pacces (eds), *Comparative Financial Regulation* (Edward Elgar Publishing 2025).
[136] Edoardo D Martino and Enrico C Perotti, 'Containing Runs on Solvent Banks: Prioritizing Recovery over Resolution' (2025) 7 Journal of Financial Crises 1.
[137] See, respectively, Articles 95 and 117 MiCAR.
[138] On the limitations of this fragmented approach to supervision of financial institutions, see Metrick (n 44) 147.

safeguards.[139] In periods of strong politicization of finance and financial regulation, such as the one we are living in, this can be seen as risky. In particular, the Trump family's involvement in issuing its own USD stablecoin creates obvious risks of political interference.

4.1.7 Cross-border reach

A final regulatory variable is cross-border reach (see Table 11 in the Appendix). Money is shaped by the law which applies insofar as it has jurisdiction over individuals, firms and transactions. We now focus on the extent to which a jurisdiction's rules reach beyond its borders. The GENIUS Act states clearly that issuers not licensed under the act cannot lawfully issue stablecoins in the US; MiCAR does the same in a legally more convoluted fashion. Beyond this, the EU and US approaches differ sharply again.

The US allows foreign issuers to market stablecoins in the US as long as it can retain some (political) control over the issuer. For a foreign issuer to market stablecoins in the US, the Secretary of the Treasury can take *ad hoc* decisions to authorise foreign issuers that comply with a regime considered comparable to that of the GENIUS Act (registration with the OCC is still required). This approach could attract issuers such as Tether to the US (it is currently based in Hong Kong). The GENIUS Act also tasks the Treasury Secretary with entering into agreements with other jurisdictions to facilitate international transactions and the interoperability with United States dollar-denominated payment stablecoins issued overseas; this represents one more legal channel for US cryptomercantilism.

None of these options is currently available under MiCAR, which only allows for supervisory cooperation agreements. One way to access the EU internal market without being licensed as an EU stablecoin issuer would be 'equivalence'.[140] Such a possibility is currently not available under MiCAR. The opportunity to establish an equivalence regime is under scrutiny, and the Commission is required to report on this by June 2027.[141]

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[139] Henry B Hogue, Marc; Labonte and Baird Webel, 'Independence of Federal Financial Regulators: Structure, Funding, and Other Issues' (2023).
[140] Francesco Pennesi, 'Equivalence in the Area of Financial Services: An Effective Instrument to Protect EU Financial Stability in Global Capital Markets?' (2021) 58 Common Market Law Review 39.
[141] Article 140(1)(v) MiCAR.

4.2 EU law and monetary safeguards

We have compared the two regimes. We now turn to the issue of monetary sovereignty and how a jurisdiction can protect itself against cryptomercantilism. We do this by analysing the MiCAR monetary safeguards, but cryptomercantilistic policies also target jurisdictions with a lower political and regulatory capacity, which may have fewer safeguards in place.

MiCAR contains two types of safeguards. The first concerns issuers of non-MiCAR compliant stablecoins that seek to enter the EU market. The second concerns MiCAR compliant stablecoins that are denominated in a foreign currency. We analyse these two threats to monetary sovereignty sequentially. Finally, we discuss the issue of fungibility between MiCAR compliant and foreign stablecoins.

4.2.1 Stablecoins issued by a foreign non-MiCAR compliant issuer

After MiCAR entered into force in 2024, European clients can still legitimately own foreign, non-MiCAR compliant stablecoins, but the regulatory regime brings their liquidity, and hence moneyness, close to zero.

The licensing regime for stablecoins clearly states that only credit institutions and electronic money institutions can issue, hence offer these to the public. To have such a license, the issuer must be established in the EU and apply to the competent authority. Given these strict requirements, one possibility for foreign-issued stablecoins to enter the EU market may be through Crypto Asset Service Providers (CASP), such as trading platforms. The Commission recently clarified that an EU CASP cannot execute orders to buy and sell non-MiCAR compliant stablecoins because it would amount to an 'offer to the public' of the non-MiCAR compliant stablecoins.[142] Therefore, services such as reception, transmission and execution of orders; and the exchange of crypto-assets for funds or other crypto-assets are not allowed; whereas other services such as custody are still allowed as they do not imply an offer to the public. This stance de facto ring-fences the EU crypto market from stablecoins issued under a different legal framework, insulating European investors from the risks arising from laxer regimes.

[142] ESMA_QA_2404. Available at https://www.esma.europa.eu/publications-data/questions-answers/2404. Following up on this position taken by the Commission, ESMA clarified that some crypto asset services in relation to foreign issued stablecoins, such as custody and transfer, do not amount as an offer to the public; hence, they remain legal. See ESMA, Public Statement On the provision of certain crypto-asset services in relation to non-MiCAR compliant ARTs and EMTs. 17 January 2025 ESMA75-223375936-6099.

The only possibility for EU residents to acquire non-MiCAR-compliant stablecoins is through the so-called 'reverse solicitation' exemption. A European client can request the provision of a crypto-asset service on their own initiative, such as the order of foreign stablecoins from a non-MiCAR-compliant CASP. Providing such a service does not amount to an offer to the public.[143] The reverse solicitation exemption, however, is not much of a backdoor to the European market. Non-MiCAR-compliant stablecoins can be bought by clients but cannot be listed or traded; therefore, their liquidity remains low. This implies that foreign stablecoins may be occasionally used as a store of value by European clients but not as a means of exchange. Furthermore, lacking liquidity, deciding to use foreign stablecoins as a store of value would imply considerable downside risks which are incompatible with the store of value function.

4.2.2 Non-euro denominated stablecoins issued by MiCAR-compliant issuers

The second monetary threat pertains to the case of MiCAR-compliant stablecoins whose denomination is not the Euro or another official currency of a Member State, especially USD-denominated stablecoins. This is important to protect the monetary sovereignty of the European currencies and the smooth transmission of monetary policy.

MiCAR is organised along two lines of defence.[144] The first line allows for restricting the issuance of stablecoins that are widely used as a means of payment. This applies to issuers of stablecoins denominated in a foreign currency with daily average number of transactions and the average volume of transactions exceeds, respectively, 1 million and EUR 200 million.[145] If these thresholds are exceeded, the issuance must stop and, within 40 working days, the issuer must submit a plan to the competent authority to restore compliance.[146]

This first line of defence sets clear quantitative thresholds and empowers the competent authority to monitor and ensure compliance. In contrast, the second line of

[143] Article 61 MiCAR. To avoid market disruptions and allow for a smooth transition, ESMA invited CASPS maintain crypto-asset services for these products on a 'sell only' basis for a longer period (until the end of Q1 2025).
[144] These safeguards were introduced in the last round of amendments before the final approval of MiCAR. Their legal construction is based on Article 58(3), which is baroque and difficult to interpret. The norm is, in principle, dedicated to the specific additional requirements for significant e-money token. However, the third paragraphs refer to any e-money token denominated in a currency that is not an official currency of a Member State. To these tokens, article 23 and 24(3) MiCAR are applicable.
[145] For the purpose of this safeguard, only the use of stablecoins as a means of payment is relevant and not the transactions associated simply with the exchange of e-money tokens for funds or other crypto-assets. On the specific definition of 'transactions' for the purpose of this safeguard, see Article 22(1) MiCAR.
[146] Article 23(1) MiCAR.

defence empowers the ECB with a broad discretionary power not calibrated by a specific quantitative threshold. The ECB can issue an opinion that the stablecoin "poses a threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty".[147] In this case, the competent authority is required to limit the amount of the stablecoin that can be issued or (to limit use for small payments) impose a minimum denomination amount; as specified in the ECB opinion. It is important to highlight that the final decision remains with the competent authority, which is the EBA for significant stablecoin issuers; but the content of the opinion issued by the ECB is binding for the competent authority.

This allocation of tasks raises questions regarding accountability and judicial control. From an institutional perspective, the ECB has a general power to deliver opinions and, as legal acts issued by the ECB, these are subject to the judicial control of the ECJ.[148] The fact that the final formal decision rests with the competent authority does not decrease the judicial oversight of the ECJ. It is well established in case law that the ECB should respect EU law when its acts are part of a more complex procedure leading to a legally binding decision taken by another body or institution.[149] What remains unclear is the accountability of the ECB when making such a pivotal decision with political consequences. This complex inter-institutional procedure should involve dialogue between the ECB, the Parliament and the Council in the preparation of the opinion.

The political sensitivity of the decision to ban a foreign currency stablecoin have direct consequences for the effectiveness of this second line of defence. In fact, the ECB may be too hesitant to take such a pivotal decision, so that what is on paper an extremely strong safeguard may become an extremely ineffective one.

4.2.3 The problem of EU and non-EU stablecoin fungibility

Stablecoins are designed to be technologically fungible.[150] Stablecoins issued by Tether (USDT) and Circle (USDC) are not fungible, but a USD C issued by Circle in the US,

[147] Article 24(3) MiCAR.
[148] See, respectively, Article 132 TFEU and article 35 ESCB Statute.
[149] See, for instance the ECJ decision on the Cases C-8/15 P to C-10/15 P Ledra Advertising Ltd, et al. v. European Commission and the European Central Bank [2016]. The judgment comes in the context of the acts of the ECB when negotiating the Memorandum of Understanding between the ESM and a participating State. The ECJ held the ECB and the Commission responsible for the legality of the conditionalities attached to the aid received by the participating State from the ESM.
[150] Matteo Loporchio and others, 'Analysis and Characterization of ERC-20 Token Network Topologies' (2024).

under the GENIUS rules is fungible with a USD C issued by Circle in France under MiCAR rules. This principle of on-chain equivalence is what enables their circulation across wallets, platforms, and jurisdictions without friction, but it also raises threats to monetary sovereignty and financial stability.

Fungibility can be used to externalise (part of) the domestic financial stability costs of cryptomercantilism.[151] Consider the case of Circle issuing USDC and distributing the tokens in multiple jurisdictions under different regulatory frameworks but via the same smart contract. The law distinguishes between the tokens issued in the US under the GENIUS Act and those issued in the EU under MiCAR. This means, for instance, that the USDC issued under MiCAR have segregated reserves complying with MiCAR requirements while USDC issued under GENIUS is subject to the laxer regime enshrined there. However, the blockchain does not make such a differentiation. For the ledger, a "USDC" is simply a USDC, regardless of the conditions under which it was created.

From a legal perspective, fungibility undermines the credibility of regulatory distinctions. Under MiCAR, issuers of stablecoins are subject to strict prudential rules, reserve requirements, and redemption safeguards. The GENIUS Act, in contrast, envisages a more permissive framework, with weaker guarantees for token holders. Yet if both types of tokens are minted deploying the same smart contract, the two tokens are technologically indistinguishable.

The practical effect is that the robust safeguards of MiCAR are diluted by the presence of formally identical but substantively riskier assets. This mechanism sits squarely in the broader debate on cryptomercantilism versus monetary sovereignty. If the US promotes stablecoins as global instruments of monetary power, fungibility ensures that the burden of credibility falls disproportionately on the EU. By providing the "safe" version of the same token, the EU inadvertently backstops the credibility of the US regime, eroding its own monetary autonomy. Fungibility thus acts as a technological backdoor through which monetary safeguards are challenged.

While there are no safeguards for this issue in MiCAR, it is not a problem that monetary law in a single jurisdiction can easily resolve. Monetary law regulates issuers, redemption rights, and prudential requirements, but it has no control over how tokens circulate once minted. The nature of blockchain and smart contracts is to enforce

[151] See *supra* Section 3.2

uniformity. Once a token contract is deployed, every unit is functionally identical.[152] In fact, smart contracts can turn private arrangements into *de facto* property rights with *erga omnes* effect irrespective of legal categories.[153] In this case, the automatic execution of the smart contract upon the decision to switch from a GENIUS to a MiCAR stablecoin supersedes the different legal categorisation of the two coins. The important and worrying consequence of this technological feature is that regulatory safeguards imposed by law cannot differentiate assets on-chain, because the code enforces equivalence. In this sense, the code becomes law.[154] Without technological intervention, the law remains powerless to prevent riskier tokens from circulating under the appearance of safety.

If the problem lies in technology, regulation must target the technology directly. One way to do this is to require issuers to deploy separate smart contracts for tokens issued under different regimes, making them technically non-fungible. Another, more far-reaching approach would be to take inspiration from existing obligations under EU tech law. The recently adopted Data Act requires smart contracts used for data-sharing to contain a "safe termination" or *kill switch* mechanism.[155] Extending this principle to stablecoin contracts would allow supervisors to intervene directly. The supervisor could, in the event of stress, activate the switch to halt transactions in non-compliant or riskier tokens before risk is offloaded into the safer pool. This would translate regulatory distinctions into code, bridging the gap between monetary law and blockchain design.

Without some form of technological safeguards, the EU monetary safeguards will remain porous. From the perspective of more traditional financial and monetary law, entities issuing fungible stablecoins should be considered 'significant' irrespective of other criteria because of the financial stability and monetary sovereignty issues it entails. This could help complement the technology law safeguards, empowering the EBA to use the kill switch rather than the NCA.[156]

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[152] Vitalik Buterin, 'Ethereum: A Next-Generation Smart Contract and Decentralized Application Platform' (2014) accessed 1 November 2024.
[153] Stefan Bechtold and others, 'Property without Law' [2026] Yale Journal on Regulation (forthcoming).
[154] As famously stated by Lawrence Lessig and advocated by blockchain proponents. See Lawrence Lessig, 'Code Is Law. On Liberty in Cyberspace' [2000] Harvard Magazine; Primavera De Filippi, Blockchain and the Law: The Rule of Code, vol 84 (Harvard University Press 2018). However, the code remains law only if the law does not claim back its role. Until this happens, the code externalises risks and losses onto other parts of society, as analysed in Martino and Ringe (n 7).
[155] See Article 36(1)(b) of the Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) OJ L, 2023/2854. In the Data Act, the requirement to include a safe termination mechanism relates only to data sharing agreements.
[156] See Article 56(1) and 43 (1) (e) and (g) MiCAR.

5. Conclusion

Stablecoins open up a new front in global currency competition. In this article, we compared two strategies for regulating stablecoins: a US strategy of cryptomercantilism and an EU strategy of monetary sovereignty. We showed that these strategies inform superficially similar, but on closer inspection, strikingly different legal frameworks. Whereas the 2024 MiCAR serves to safeguard the EU's domestic monetary sovereignty, the US's 2025 GENIUS bill seeks to strengthen widespread use of the dollar.

MiCAR, combined with the European Union's stable inflation and high financial inclusion through widespread banking access, provides the EU with a degree of protection against US stablecoins. The development of a digital euro, on-chain public money, particularly if it enables faster payment services, will further reduce the need for stablecoins as an alternative means of payment. The protection offered by MiCAR could, however, be undermined by equivalence agreements that give a similar legal status in the EU to stablecoins issued in the US. Moreover, the fungibility of stablecoins creates a technological loophole that undermines legal distinctions, allowing riskier tokens to circulate under the guise of safety and diluting the credibility of regulatory safeguards, such as MiCAR. To address these risks, stablecoin issuers should be considered "significant" for financial stability purposes when stablecoins circulate globally, and technological interventions—such as separate smart contracts or programmable "kill switches"— should be developed to enforce regulatory differences on-chain and protect monetary sovereignty.

The EU's current favourable situation may not be shared by other countries that rely heavily on US-based digital services (social networks, retail platforms, etc.). This is in particular the case for those that currently issue unstable domestic currencies, low financial inclusion, and minimal regulatory oversight of stablecoins. In these countries, the population will have clear incentives to adopt stablecoins, either for financial inclusion or protection against inflation. How these countries respond to US policy will likely be critical in shaping the future of cryptocurrencies, payment systems, and the international monetary system. Traditional instruments of capital controls may need to be combined with more innovative cyber equivalents. In high-inflation economies, CBDCs or fast payment systems (such as Brazil's Pix) may provide an accessible, safe, and efficient alternative to stablecoins; however, CBDCs do little to protect against inflation.

Consequently, moderate price stability will likely be a fundamental prerequisite for safeguarding monetary sovereignty in the face of stablecoin proliferation.

Equally, the mere development of CBDCs and domestic fast payment systems does not automatically facilitate international payments. Ensuring interoperability between CBDCs and fast payment systems across countries will therefore be another crucial condition for maintaining monetary sovereignty in the years ahead. In the past years, China has taken the lead in developing such an infrastructure for the e-CNY.[157] While the US has all but given up on this option, the EU should still seek to develop a similar infrastructure for its currency.[158]

The recent literature on cross-border payments through CBDC and fast payment systems highlights three important features that deserve consideration at an early stage.[159] First, international cooperation is essential. Information sharing, consistent communication standards and regulatory approaches, and the establishment of a common infrastructure are indispensable for facilitating the interoperability of CBDCs with other CBDCs and non-CBDC fast payment systems. Second, automatic currency conversion will be crucial for efficient cross-border payments. Currency conversion can be operated by private sector intermediaries, even for exchanges between different CBDCs. However, where necessary central banks should also consider their own role in providing liquidity or currency conversion. This could include regional agreements to pool foreign exchange reserves. Third, capital flow management measures should be considered in payment infrastructures to avoid financial stability risks associated with potentially increased payment volatility.

The development of a cooperative and multilateral approach to payment systems across jurisdictions can avoid the privatisation of international payments by dollar-pegged stablecoins and the associated risks to monetary sovereignty and financial stability. Thus, the future of international money is likely to be determined by both how non-US jurisdictions react to the GENIUS act and whether international payments remained done in domestic currencies or in stablecoins backed by a core currency such as the dollar.

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[157] Linshan Zeng, Martin R Young and Wei Hao, 'Currency Digitalization: The Supply, Demand, and Infrastructure Aspects of China's Central Bank Digital Currency' (2025) 85 Finance Research Letters 108001.

[158] See n 1. See also Executive Order of the President of the United States No. 14178—Strengthening American Leadership in Digital Financial Technology

[159] Committee on Payment and Market Infrastructure, 'Options for Access to and Interoperability of CBDCs for Cross-Border Payments' (2022); Aurazo and others (n 3).

Appendix – Comparative tables of the MiCA Regulation and GENIUS Act

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Issuers and license	Issuing entities	▪ Credit Institutions - Art. 48(1)(a) MiCAR o ie: universal bank license under the Capital Requirement Regulation ▪ Electronic Money Institution - Art. 48(1)(a) o eg: Revolut Payment; Nexi Payment	▪ Subsidiary of an insured depository institution – Sec 2(23) (A) ▪ Federal qualified nonbank payment stablecoin issuer – Sec 2(23) (B) ▪ State qualified payment stablecoin issuer – Sec 2(23) (C)
	Type of license	▪ No specific MiCAR license ▪ Either a Credit Institution License (issued by the ECB or National Central Bank) or an Electronic Money Institution License (National Competent Authority with internal market passport) ▪ Notification of the intention to issue e-money tokens to the competent authority 40 days ahead	▪ Stablecoin specific license ▪ Decision by the Primary Federal payment stablecoin regulator – see below Table 9 – Sec 2(25) ▪ Decision based on the ability to comply with substantive requirements (see below Table 7 and Table 8); fit & proper requirements; factors that are necessary to ensure the safety and soundness of the issuer (secondary regulation) – Sec 5(c) ▪ Decision in 120 days; silence equals approval – Sec 5(d)(1) & Section 5(d)(3)

Table 5 – Issuers and license

Regulatory variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Issuance and redemption	Legal Nature	▪ E-money Tokens are deemed to be Electronic Money[163] ▪ Issuers issue e-money tokens at par upon the receipt of funds	▪ *Sui generis* Digital Asset designed to be used for payment or settlement – Sec 2 (22)(A) ▪ Treated as cash equivalent for accounting purposes, for margin and collateral requirements, and acceptable as settlement asset for wholesale transactions – Sec 3(g)
	Redemption Right	▪ Holders have a direct claim against the issuer ▪ Redemption at par, at any time, in funds[164] other than electronic money ▪ No fees for redemptions	▪ Issuers of stablecoins obliged to convert, redeem or repurchase for a fixed amount of monetary value – Sec 4(a)(1)(B)(i) ▪ Redemption policy shall be public, including redemption fees, if any – Sec 4 (a)(1)(B)(ii)
	Interest Payment	▪ Prohibited – Art. 50 MiCAR	▪ Prohibited – Sec 4(a)(11)

Table 6 – Issuance and redemption

[163] Electronic Money means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions, and which is accepted by a natural or legal person other than the electronic money issuer – Article 2(2) E-money Directive.
[164] In this context, 'funds' means banknotes and coins, scriptural money – Article 4(25) Payment Service Directive.

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Significant issuers	Designation	▪ Mandatory: quantitative and qualitative threshold assessed by the EBA[165] ▪ Voluntary: at the request of the issuer if it is likely to meet the mandatory threshold	▪ At Federal level: one-size-fits-all regulation for bank subsidiaries and non-bank issuers ▪ At State level: subject to State legislation, but if outstanding issuance > 10 mil USD the Federal Regulatory Framework applies – Sec 4(d)(1) and (2) ▪ Option to keep State level regulation if State-level regulatory regime is substantially similar to the Federal regulatory framework – Sec 4 (d) (3)
	Additional Requirements	▪ Stricter, MiCAR-specific, requirements on reserves of assets, investment of reserves, custody, liquidity management policy, liquidity stress-testing, higher capital requirements – Article 58 MiCAR	▪ Additional reporting requirements for federal issuer of payment stablecoins if consolidated total outstanding issuance > 50 bil USD – Sec 4(a)(10)

Table 7 – Significant issuers

[165] At least three of the following criteria: (a) the number of holders of the asset-referenced token is larger than 10 million; (b) the value of the asset-referenced token issued, its market capitalisation or the size of the reserve of assets of the issuer of the asset-referenced token is higher than EUR 5 000 000 000; (c) the average number and average aggregate value of transactions in that asset-referenced token per day during the relevant period, is higher than 2,5 million transactions and EUR 500 000 000 respectively; (d) the issuer of the asset-referenced token is a provider of core platform services designated as a gatekeeper in accordance with Regulation (EU) 2022/1925 of the European Parliament and of the Council (43); (e) the significance of the activities of the issuer of the asset-referenced token on an international scale, including the use of the asset-referenced token for payments and remittances; (f) the interconnectedness of the asset-referenced token or its issuers with the financial system; (g) the fact that the same issuer issues at least one additional asset-referenced token or e-money token, and provides at least one crypto-asset service – Article 56(1) jo. 43(1) MiCAR.

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Reserves and asset safeguards	Reserve Assets and their investment	▪ 30% of the funds always deposited in a separate bank account in the currency that the e-money tokens refer to – Art. 36(4)(d) ▪ the remaining can be invested in 'highly liquid financial instruments'[166]	▪ Requirement to maintain reserves backing the outstanding payment stablecoins of the permitted payment stablecoin issuer on an at least 1 to 1 basis, with reserves comprising – Sec 4(a)(1)(A) ▪ Wide range of potential reserve assets – Sec 4 (a)(1)(A) (i) to (vii)[167] ▪ Including tokenised reserves ▪ Prohibition on rehypothecation, with exceptions – Sec 4 (a)(2)
	Custody	▪ Prohibition to commingle with other funds & insurance coverage – Article 10 Payment Service Directive ▪ For significant e-money tokens: reserve assets, including invested financial instruments, are held in custody by a bank, investment firm or crypto-asset service providers. Article 36(4) MiCAR	▪ Custody from a third party is mandatory and must be carried out by a supervised and regulated entity – Sec 10(a) ▪ Prohibition to commingle with relevant exceptions, but the claims of a customer have priority over the claims of any person – Sec 10(c)(1) to (3)
	Crisis management	▪ Draft a recovery plan (including measures such as liquidity fees, gates and suspension of redemption) – Article 46 MiCAR ▪ Draft a redemption plan for the orderly redemption of tokens – Article 47 MiCAR ▪ Bankruptcy treatment according to national insolvency proceedings or resolution framework if issued by a bank	▪ No specific crisis management requirements in the GENIUS Act ▪ Mandatory stay applies to the redemption of payment stablecoins once a petition for bankruptcy is files – Sec 11 (c) (9) and 11 US Code § 362 ▪ Explicit priority in insolvency proceedings – Sec 11 (d)

Table 8 – Reserves and asset safeguards

[166] Article 38 MiCAR as amplified by EBA/RTS/2024/11 – Draft Regulatory Technical Standards to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) of Regulation (EU) 2023/1114 [not yet in adopted by the Commission]. Specifically: Level 1 Asset with no haircut or Covered Bonds (up to 35% of reserves). The Level 1 Assets with no haircut are listed in the COMMISSION DELEGATED REGULATION (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions. Essentially, it includes banknotes, coins, exposure on Central Banks, claims on or guaranteed by Central Governments.

[167] Including Coins, Currency, Demand Deposits, Treasury bills, notes, or bonds with residual maturity of less than 93 days, overnight repos, reverse overnight repos, public debt money market funds, other 'similarly liquid Federal Government-issued asset' approved by the regulation, the tokenized form of any of the previous securities mentioned.

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Core Prudential Requirements	Capital Requirements	▪ 2% of own funds in the form of Common Equity Tier – Article 5(3) EMD ▪ Possible to impose 20% prudential add-on top of the minimum requirement – Article 5(5) EMD ▪ For significant e-money tokens: 3% of own funds in the form of Common Equity Tier 1; the prudential add-on can be up to 40% – Article 45(3) and 35(5) MiCAR	▪ Tailor-made decision by the primary Federal regulator, not exceeding what is sufficient to ensure on-going operations – Sec 4 (a) (4) (i) ▪ Possibility to introduce tailored-made buffers based on the business model and risk profile – Sec 4 (a) (4) (i)(III) ▪ If the stablecoins is issued by the subsidiary of a depository institution, the bank-specific capital requirements (both leverage ratio and risk-weighted requirements) do not apply to the issuer of stablecoins on a consolidated basis – Sec 4(a)(4)(C)(iii)
	Liquidity Requirements	▪ 30% of the funds always deposited in a separate bank account ▪ For significant e-money tokens: draft 'liquidity management policy and procedure' & conduct liquidity stress testing	▪ The determination of liquidity standard is determined by the primary regulator – Sec 4 (a) (4) (A) (ii) ▪ These shall include reserve asset diversification, and interest rate risk management standards which should be tailor-made and not exceed what is sufficient to ensure on-going operations – Sec 4(a)(4) (A) (iii) ▪ If the stablecoins is issued by the subsidiary of a depository institution, the bank-specific liquidity requirements do not apply to the issuer of stablecoins on a consolidated basis – Sec 4(a)(4)(C)(ii)

Table 9 – Core Prudential Requirements

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
Supervision and enforcement	Designated authority	▪ National Competent Authority with 'last resort' intervention power from EBA – Article 93 and 104 MiCAR. ▪ For Significant e-money tokens: centralized supervision by EBA in cooperation with the NCA – Article 117(4) and (5) MiCAR	▪ Key concept: Primary Federal Payment Stablecoin Regulator ▪ For the subsidiary depository institutions: the supervisor of the depository institution – either the OCC, the FDIC or the FED, depending on the type of institutions – Sec 2 (25) (A) and Sec 3 (q) of the Federal Deposit Insurance Act ▪ For non-bank payment stablecoins issuers the OCC – Sec 2 (25)(D)
	Supervisory Powers	▪ Broad powers to require information provision; amend or suspend offers or trading, etc – Article 94 MiCAR ▪ Impose fines and penalties in case of infringements.	▪ In case of violations, the Primary Regulator can – Sec. 6(b) (1) to (3) ▪ Suspend or revoke the registration. ▪ Issue cease and desist orders ▪ Remove or prohibit further participation of director, officer, employee, or controlling stockholder
	Reporting Duties	▪ Reporting duties as required by the National Competent Authority ▪ For significant e-money tokens: EBA power to request information – Article 122 MiCAR. ▪ For significant e-money tokens non-euro denominated: quarterly report on holders, total value, transaction volume.	▪ Monthly reporting duties to the primary Federal regulatory; the reporting is examined by a registered accounting firm – Sec 4(a)(3) ▪ Submission of reports upon request of the Primary Regulator – Sec 6(a)(2)

Table 10 – Supervision and enforcement

Regulatory Variable	Regulatory dimension	EU MiCAR	US GENIUS Act
	Equivalence and Mutual Recognition	▪ Possibility to conclude supervisory cooperation agreements – Article 107 MiCAR	▪ The Secretary of the Treasury may enter into reciprocal arrangements with jurisdictions with payment stablecoin regulatory regimes that are considered comparable to the GENIUS act, to facilitate international transactions and interoperability with United States dollar-denominated payment stablecoins issued overseas – Sec 18 (d)
Extraterritorial reach and equivalence	Foreign issuers	▪ Only EU licensed credit and electronic money institution can offer to the public or seek admission to trading of e-money tokens ▪ Non-licensed stablecoins cannot be listed in MiCAR-compliant crypto-trading platforms, but mere custody and transfer remain possible;[168] ▪ Possibility for Payment Service Providers to accept non-EU licensed stablecoins as a means of payment ▪ Reverse solicitation exemption – Article 61 MiCAR	▪ It shall be unlawful for any person other than a permitted payment stablecoin issuer to issue a payment stablecoin in the United States unless the foreign payment stablecoin issuer has the technological capability to comply, and will comply, with the terms of any lawful order or reciprocal arrangement– Sec 3 (b) (2)[169] ▪ Possibility to require an ad hoc decision from the Secretary of the Treasury stating that the regulatory and supervisory regime of the foreign country of issuance is comparable to the requirements established under the GENIUS Act – Sec 18(a) ▪ Registration with the OCC is still required – Sec 18 (c)

Table 11 – Extraterritorial reach and equivalence

[168] ESMA_QA_2404.

[169] With explicit exemption for issuers from some offshore jurisdiction affiliated with the United States, such as claims of a customer with respect to the property described in that paragraph shall have priority over the claims of any person; as long as the issuer is registered with the OCC – Sec 18 (a)(1).

Address

European Banking Institute e.V.

TechQuartier (POLLUX)

Platz der Einheit 2

60327 Frankfurt am Main

Germany

For further information please visit our website www.ebi-europa.eu or contact us at info@ebi-europa.eu

The European academic joint venture for research in banking regulation

www.ebi-europa.eu