U.S. Department of the Treasury
Attn: Office of the General Counsel
1500 Pennsylvania Ave NW
Washington, DC 20220

November 4, 2025

Re: GENIUS Act Implementation Comments (RIN 1505-ZA10)

To Whom It May Concern,

The Independent Community Bankers of America[1] ("ICBA") and its members appreciate the opportunity to engage with the Treasury Department ("Treasury") as Treasury works with other federal agencies (collectively, the Agencies) charged with implementing the Guiding and Establishing National Innovation for U.S. Stablecoins Act ("GENIUS Act")[2] by developing a regulatory framework for permitted payment stablecoins. This Advance Notice of Proposed Rulemaking ("ANPR") is an important first step in the process.

Community banks have closely monitored the growth of the cryptocurrency ecosystem and have invested considerable time and resources to understand the potential risks and benefits of stablecoins. ICBA and community bankers are greatly concerned by new research showing that stablecoins may potentially disrupt the banking system, leading to severe consequences for community bank lending capacity and negative impacts on the health of the local economies they serve.

As Secretary Bessent has stated, community banks are critical to the economic life of the United States:

> Community banks help ensure that the benefits of economic growth reach all Americans across this large and diverse country. They make many of our small business and agriculture loans, especially in small towns and rural areas. They are also at the center

[1] The Independent Community Bankers of America® has one mission: to create and promote an environment where community banks flourish. We power the potential of the nation's community banks through effective advocacy, education, and innovation. As local and trusted sources of credit, America's community banks leverage their relationship-based business model and innovative offerings to channel deposits into the neighborhoods they serve, creating jobs, fostering economic prosperity, and fueling their customers' financial goals and dreams. For more information, visit ICBA's website at https://www.icba.org/.
[2] GENIUS Act, Pub. L. 119-25, 139 Stat. 419 (2025), codified at 12 U.S.C. §§ 5901-5916.

of their communities' civic life, cutting the check for the new playground, teaching financial literacy in schools, and employing some of the local leaders.[3]

Given the importance of community bank lending capacity to local economies across the country and in light of the risks stablecoins pose to the banking system, ICBA urges the Agencies implementing the GENIUS Act to approach this rulemaking with a foundational principle: "Do no harm." The American banking system is the envy of the world for its diversity of banks—including many community banks that specialize in serving rural communities, small businesses, and the agricultural sector—and its ability to power businesses of all shapes and sizes. We support efforts to examine the potential capabilities provided by stablecoins, but the realization of this potential cannot come at the expense of community banks and the invaluable access to credit and banking services they offer to American communities. The Trump administration has recognized the importance of community banks, including, for example, the acknowledgement in the President's Working Group on Digital Assets Report of the important role of community banks in the U.S. financial ecosystem.[4] Secretary Bessent recently championed the significance of community banks, saying they are "laying the foundation for America's Golden Age—one loan, one family, one small business at a time."[5]

This foundation, however, may be weakened if the rulemaking process for payment stablecoins fails to manage their risks appropriately. ICBA and our community bank members carefully considered the wide range of questions and issues presented by this ANPR and urge the Agencies to ensure implementation of the GENIUS Act satisfies the following recommendations:

1. Protect community bank deposits and lending capacity.
2. Avoid outcomes that would erode availability of credit for the American farmers, small businesses, and rural communities that depend on community banks.
3. Implement Congress' intent and prohibit evasion of the prohibition on yield-bearing stablecoins.
4. Strictly adhere to Congressionally defined key terms, including "payment stablecoin" and "digital asset service provider." Provide meaningful regulation and supervision to payment stablecoin issuers and digital asset service providers by codifying the following:
    a. Rigorous safety and transparency requirements for payment stablecoin reserves;
    b. A weighting system to reflect the liquidity risk of each reserve asset type;
    c. A public, standardized reporting mechanism to enable comparability across the sector;
    d. Marketing restrictions that prevent the impression that stablecoins are legal tender or backed by the government, as disclosures alone are insufficient to

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[3] U.S. Dep't of the Treasury, *Treasury Scott Bessent Remarks before the American Bankers Association* (Apr. 9 2025), https://home.treasury.gov/news/press-releases/sb0078.
[4] President's Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology* at 94 (2025), https://www.whitehouse.gov/crypto/.
[5] U.S. Dep't of the Treasury, *Remarks by Secretary of the Treasury Scott Bessent Before the Fed Community Bank Conference* (Oct. 9, 2025), https://home.treasury.gov/news/press-releases/sb0276.

counter customer and public misperceptions about the safety of payment stablecoins when compared to banking products and services; and
    e. Limiting any safe harbors for non-permitted issuers to remain consistent with the plain language of the GENIUS Act;
    f. Avoid creating loopholes that would allow for evasion of regulatory oversight.
5. Adhere to the longstanding principle of separating banking and commerce by appropriately limiting the ability of non-financial companies to issue stablecoins.
6. Ensure the Stablecoin Certification Review Committee sets forth rigorous standards and denies any applications that would impair financial stability, imperil the health of the Deposit Insurance Fund, or pose a risk to consumer safety and data privacy.
7. Prevent regulatory arbitrage by ensuring any state approach satisfies the rigorous bar set by federal standards, while still allowing states the flexibility to exceed federal standards in order to protect their residents.
8. Address the acute illicit finance concerns presented by payment stablecoins, especially those posed by North Korea and other hostile state actors as well as crypto scammers.
9. Implement a strong anti-money laundering/countering the financing of terrorism (“AML/CFT”) and “know your customer” (“KYC”) framework that includes KYC requirements for unhosted wallets.
10. Implement a strong framework to determine if a permitted payment stablecoin issuer has cured noncompliance.
11. Define compliance with technical requirements, such as the ability to freeze, seize, and block payment stablecoins in response to lawful orders.
12. Apply equal standards to foreign payment stablecoin issuers, with the challenge that the requirement for foreign payment stablecoin issuers to maintain sufficient reserves in US financial institutions to meet potential redemptions by US holders clashes with the inherent pseudonymity provided by unhosted wallets.
13. Support every rule implementing the GENIUS Act with robust cost-benefit analysis that is conducted independently of the rulemaking process.
14. Mitigate the significant financial stability risks stemming from payment stablecoins and the crypto ecosystem being further integrated into the financial system.
15. Safeguard the bank-funded Deposit Insurance Fund from crypto-related shocks.
16. Avoid outcomes that would leave banks to incur the costs of payment stablecoin-related risks.
17. Study insolvency issues to avoid conflict with existing depositor protections and address the complications resulting from the unique bankruptcy treatment set forth in the GENIUS Act.

ICBA looks forward to working with Treasury to ensure that community banks can explore the benefits of digital assets on equal footing with crypto companies and global banks, while avoiding the many risks that stablecoins and the crypto ecosystem pose to the banking sector and the U.S. financial system.

I. Background

A. ANPR

In contrast with volatile cryptoassets like bitcoin, stablecoins attempt to maintain a stable value with the backing of high-quality assets and deposits. Stablecoins have rapidly multiplied in the past few years alongside the swift growth of the overall cryptoasset market. This growth reflects the key role of stablecoins in the wider crypto market: they sustain crypto trading and serve as foundational building blocks for the burgeoning world of decentralized finance ("DeFi"). There are now nearly $310 billion worth of stablecoins in circulation across various blockchains.[6] Most of this amount is backed by deposits at banks and US Treasuries; therefore, stablecoins serve as a nexus between the traditional financial system and the crypto ecosystem.

That function only succeeds when stablecoins live up to their name by maintaining stable values and the ability to meet customer redemptions. If any stablecoin fails, then the cracks resulting from the collapse can ripple across the financial system. Unfortunately, this scenario is not hypothetical. Indeed, the Bank for International Settlements found that no stablecoin has managed to always maintain parity with its peg to the reference asset.[7] In other words, stablecoins have proven to be anything but "stable." Collapses such as TerraUSD in 2022 demonstrate how quickly users can lose confidence in a stablecoin, sparking runs that rapidly cascade across the wider crypto ecosystem.[8]

Congress passed the GENIUS Act in July, looking to establish a robust legal and regulatory framework in response to stablecoins' surging growth and potential to deliver innovative payment capabilities. Lawmakers tasked Treasury with leading the development of the regulatory framework to implement the Act, and this ANPR represents an early initiative of that effort.

B. Community Bank Impact on the Economy

Existing data demonstrates the critical role that community banks play in the banking system, including the outsized role they have in the provision of credit to small businesses and the agricultural sector.[9]

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[6] DeFiLlama, *Stablecoins* (Oct. 31, 2025), https://defillama.com/stablecoins.
[7] Anneke Kosse, Marc Glowka, Illaria Mattei & Tara Rice, *Will the Real Stablecoin Please Stand Up?,* Bank for International Settlements, BIS Papers No. 141 (Nov. 8, 2023), https://www.bis.org/publ/bppdf/bispap141.pdf.
[8] Brian Laverdure, ICBA, *A Community Bank Primer on the TerraUSD Collapse* (June 7, 2022), https://www.icba.org/newsroom/blogs/main-street-matters/2022/06/07/a-community-bank-primer-on-the-terrausd-collapse.
[9] *See, e.g.*, Federal Reserve Bank of Kansas City, *Community Banking Bulletin: The Critical Role of Community Banks* (Aug. 2024), https://www.kansascityfed.org/banking/community-banking-bulletins/the-critical-role-of-community-banks/; Matt Hanauer, Brent Lytle, Chris Summers & Stephanie Ziadeh, Federal Reserve Bank of Kansas City, *Community Banks' Ongoing Role in the U.S. Economy* at 48 (2021), https://www.kansascityfed.org/Economic%20Review/documents/8159/EconomicReviewV106N2HanauerLytleSummersZiadeh.pdf [hereinafter Kansas City Fed Report].

The economic impacts are significant:

- *Community banks play a critical role in credit availability for small businesses*. Community banks hold a larger share of small business loans relative to regional and large banks: in the second quarter of 2024, small business loans as a percent of total loans at community banks was more than double that of regional and large banks.[10] Small businesses are most likely to be approved for most or all of their applications for credit at community banks.[11]

- *Community banks play a vital role in agricultural lending*. They serve as "a major supplier of credit to agricultural producers and businesses, including during times of economic stress when the need for credit is most acute."[12] The majority of bank farm credit is provided by community banks, accounting for 81 percent of farm real estate debt held by commercial banks and 74 percent of operating debt.[13] Community banks are even more crucial to small dollar farm loans, accounting for almost 90 percent of commercial bank farmland loans with original amounts of $500,000 or less.[14]

- *Community banks are key providers of banking services to rural communities across the country*.[15] Based on data from the 2020 FDIC Community Banking Study, community bank branches represented over 71 percent of all bank branches in rural areas and held nearly two-thirds of rural deposits, in additional to accounting for more than 56 percent of total commercial bank branches in the 25 states with the largest rural population shares.[16] Additionally, rural households depend on physical bank branches, "with 88 percent stating they had visited a branch within the past 12 months, and over one-third reporting bank branches as their primary method for account access."[17]

This is the backdrop that ICBA urges the Agencies to keep in mind while they work to establish a regulatory framework to implement the GENIUS Act.

II. ICBA Comments

ICBA and community bankers welcome Treasury's endeavor to gather public feedback to inform its regulatory rulemaking; however, we urge Treasury to provide meaningful regulation and supervision to payment stablecoin issuers and digital asset service providers, and to avoid

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[10] Federal Reserve Bank of Kansas City, *Community Banking Bulletin: Highlight: Community bank focus on small business lending* (Oct. 2024), https://www.kansascityfed.org/documents/10524/Community_Banking_Bulletin_Highlight_-_Oct_2024_-_SBL.pdf.
[11] Federal Reserve Banks, 2025 Report on Employer Firms – Data Appendix, https://www.fedsmallbusiness.org/reports/survey/2025/2025-report-on-employer-firms.
[12] Kansas City Fed Report, *supra* n. 9 at 48.
[13] *Id.* at 52.
[14] *Id*.
[15] *Id*. at 48.
[16] *Id*.
[17] *Id*. at 51.

outcomes that would erode community banks' capacity to make credit available for the American farmers, small businesses, and rural communities that depend on community banks. Since the passage of the GENIUS Act, new research has revealed that community banks may lose substantial deposits to stablecoins, hampering their ability to meet the credit needs of their communities. In August, an economist with the Federal Reserve Bank of Kansas City projected that an increase in the stablecoin market from $250 billion to $900 billion (which is a relatively moderate estimate when compared to others) and the loss of $650 billion in bank deposits would result in a "$325 billion reduction in bank loans to the economy."[18]

Following the release of that report, economist Andrew Rodrigo Nigrinis released unsettling estimates about the potential disruption stemming from non-interest bearing and yield-bearing stablecoins alike. Nigrinis calculates that even relatively modest deposit losses "under the lowest stablecoin adoption estimates translate into a reduction of about $250 billion or 4 percent of all current consumer, small business, and farm loans outstanding: $18.9 billion in small business credit, $91.3 billion in consumer loans, and $10.6 billion in farm lending at small banks alone."[19] More disturbingly, yield-bearing stablecoins could lead to deposit losses approaching 26%, which could result in a total lending decline of "$1.50 trillion or roughly one-fifth of all current consumer, small business, and farm loans outstanding."[20]

ICBA and community bankers strongly urge Treasury to keep these forecasts in mind as it deliberates how to proceed with payment stablecoin regulations. According to Treasury's own research, small businesses "created over 70 percent of net new jobs since 2019," and they constitute approximately 50 percent of total private employment.[21] In other words, small businesses are the true economic engine of the American economy, and small business loans issued by community banks serve as the fuel. If payment stablecoins siphon away deposits, thus harming community banks' ability to provide loans, who or what will fill the void to provide lending?

Crypto proponents tout decentralized lending protocols as future alternatives, but no smart contract can replicate the particularized local expertise that comes from bankers who live and work alongside entrepreneurs, farmers, and ranchers. Crypto exchanges and decentralized exchanges also have no legal obligations to meet the needs of their communities as community banks do with the requirements established by the Community Reinvestment Act.

Community banks have helped the United States maintain its leadership of the global economy for decades and want to continue helping to make America the best place to start and grow a

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[18] Stefan A. Jacewitz, *Stablecoins Could Increase Treasury Demand, but Only by Reducing Demand for Other Assets*, Econ. Bull., Fed. Reserve Bank of Kansas City (Aug. 9, 2025), https://www.kansascityfed.org/research/economic-bulletin/stablecoins-could-increase-treasury-demand-but-only-by-reducing-demand-for-other-assets/.
[19] Andrew Nigrinis, *The Lending Impact of Stablecoin-Induced Deposit Outflows* (Oct. 10, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5586850.
[20] Laverdure, *supra* n. 8.
[21] Eric Van Nostrand, *Small Business and Entrepreneurship in the Post-COVID Expansion* (Sept. 3, 2024), U.S. Dep't of the Treasury, https://home.treasury.gov/news/featured-stories/small-business-and-entrepreneurship-in-the-post-covid-expansion.

new business. We strongly urge Treasury to keep this legacy in mind as it crafts regulations to implement the GENIUS Act, and to avoid outcomes that would erode availability of credit for the American farmers, small businesses, and rural communities that depend on community banks.

Set against this concerning backdrop, ICBA offers its input on each of the themes presented in the ANPR's request for comments. We look forward to additional outreach with Treasury to ensure that responsible regulation of payment stablecoins preserves the critical role of community banks in making the American economy the envy of the world.

A. The Plain Meaning of the Prohibition on Yield and Interest is Unambiguous, and Treasury Must Not Permit Evasion

Section 4(a)(11) of the GENIUS Act creates standards for the issuance of payment stablecoins, including a clear prohibition on the payment of any form of interest, yield, or other consideration to stablecoin holders:

> "No permitted payment stablecoin issuer or foreign payment stablecoin issuer shall pay the holder of any payment stablecoin any form of interest or yield (whether in cash, tokens, or other consideration) solely in connection with the holding, use, or retention of such payment stablecoin."

ICBA supports this GENIUS Act prohibition on payment of interest or yield to stablecoin holders. We believe this prohibition takes an important step to limit the risk to community bank deposits and helps preserve the ability of community banks to lend in their local communities to the households, small businesses, and farms that drive and sustain nationwide economic growth.

ICBA believes it is critical that the Agencies address the very real risk of structural credit shocks that would flow from allowing exchanges and other digital asset service providers that are business affiliates of payment stablecoin issuers to pay interest or yield to incent users to hold stablecoins in their accounts. Permitting stablecoin wallets or exchanges to offer interest or yield would transform the role of payment stablecoins from a payment vehicle to a deposit alternative that is not subject to the GENIUS Act. If this were allowed, about $1.5 trillion of bank lending capacity would be at risk, amounting to about 20 percent of existing consumer, small business, and agricultural credit, and community lenders and their borrowers would be particularly hard hit, amplifying credit losses in the sectors and communities that generate local jobs and investment.[22]

The ANPR asks if Treasury should issue regulations to clarify the meaning and scope of Section 4(a)(11) of the GENIUS Act and in particular, to clarify whether indirect payments of interest, yield or other consideration are prohibited, and the extent to which that is the case.

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[22] Andrew Nigrinis, *The Coming Stablecoin Shock to America's Credit Markets*, Open Banker (Oct. 16, 2025), https://openbanker.beehiiv.com/p/stablecoinshock.

Congress has answered these precise questions within the plain meaning of Section 4(a)(11) of the GENIUS Act. ICBA supports applying the words of Section 4(a)(11), including "pay," "interest," "yield," and "solely," according to their ordinary meaning without administrative embellishment through rulemaking. Where, as here, the law is clear and its meaning is transparent, there is no gap to be filled by agency interpretation. Rather, discerning the meaning of Section 4(a)(11) merely requires giving the literal words of the statute their plain, usual, and customary meaning.

The plain meaning of the words Congress wrote in Section 4(a)(11) is unambiguous: "any form of interest or yield" to the holder of a payment stablecoin is prohibited - clearly including any "other consideration" - in the context of "holding, use, or retention of such payment stablecoin." The statutory language prohibits a U.S. or a foreign payment stablecoin issuer from paying interest or yield to a stablecoin holder in any way, either directly or indirectly.

Construing the law to permit a digital asset service provider that is affiliated with a payment stablecoin issuer to pay interest or yield to the holders of that payment stablecoin, whether in the form of rewards, cash-back, or any other consideration, is contrary to and would negate the clear meaning and purpose of the law. Even if this were not the case, allowing a digital asset service provider to engage in prohibited conduct on behalf of its payment stablecoin affiliate would facilitate evasions of law. Prohibiting issuers from paying interest to the holders of that stablecoin does not authorize an affiliated business to engage in the prohibited act on its behalf.

Instead of developing regulations that purport to determine the scope and boundaries of the meaning of Section 4(a)(11) of the GENIUS Act, ICBA recommends that the most logical action to address evasions of law is to stop them. Doing so would have the collateral impact of promoting respect for the law and dissuading gamesmanship during implementation of the GENIUS Act. Enabling evasions of law by failing to stop them vitiates the meaning of Section 4(a)(11) and directly contravenes the reason for the prohibition on yield-bearing payment stablecoins – to preserve the deposit base that sustains credit for borrowers in the U.S. economy.

If exchanges and other digital asset service providers are permitted to offer yield-bearing payment stablecoins, this evasion of law will divert deposits away from banks resulting in a significant reduction in lending to consumers, small businesses, and farms and creating destabilizing and systemic risks to the financial system and the U.S. economy.[23]

The substantial amount of deposits that would migrate away from community banks to yield-bearing stablecoins would cause a structural shock to credit markets that would hit community banks and their consumer, small business, and agricultural customers particularly hard.[24] As deposits and lending capacity shrink, the local and rural borrowers and communities served by independent community banks would be at risk of losing access to credit , resulting in

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[23] Treasury Borrowing Advisory Committee, *Digital Money: TBAC Presentation* (April 30, 2025), https://home.treasury.gov/system/files/221/TBACCharge2Q22025.pdf; Jacewitz, *supra* n. 17; Nigrinis, *supra* n. 22.
[24] Nigrinis, *supra* n. 22.

diminished economic resilience and long-term growth for small businesses, consumers and agricultural lending – the sectors that drive local employment and investment.[25]

It is imperative to avoid these negative impacts through a straightforward application of the law prohibiting the payment of interest on stablecoins.

B. Congress Has Already Established Boundaries for Issuance and Treatment of Payment Stablecoins by Defining Key Terminology

The Treasury ANPR asks multiple questions about definitions and terms in the GENIUS Act, including the scope of the terms “payment stablecoin,” “digital asset service provider,” and any other terms in Section 3 that would benefit from additional clarification or interpretation.

Section 2 of the GENIUS Act defines the terms used throughout the new law. Many of the definitions, including the definitions of “payment stablecoin” and “digital asset service provider,” use terms that are defined, and then further defined, in other provisions of Section 2. This construction substantially expands the breadth of the questions in the Treasury ANPR because these are core defined terms that form the scope and boundary of the GENIUS Act.

1. Payment stablecoin definition

To illustrate, the term “payment stablecoin” refers to a specific type of digital asset designed for use in payment transactions that maintains a stable value relative to traditional currency. Specifically, Section 2(22) of the GENIUS Act defines a payment stablecoin as a “digital asset” that is designed to be used as a means of payment or settlement that the issuer is obligated to convert, redeem, or repurchase for fixed “monetary value” and that the issuer represents will maintain, or creates the reasonable expectation that it will maintain, a stable value. A payment stablecoin is not a digital asset that is a “national currency,” a deposit, including a deposit recorded using “distributed ledger” technology, or a security under federal securities laws.

The definition of “payment stablecoin” uses several other terms that are defined within Section 2 of the GENIUS Act. For example, the term “digital asset” within the definition of “payment stablecoin” is defined in Section 2(6) as any digital representation of value that is recorded on a cryptographically secured distributed ledger. In turn, the term “distributed ledger” as used within the term “digital asset” is defined in Section 2(8) as technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants, and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions. Additionally, the term “monetary value” is defined in Section 2(17) to mean a national currency or deposit denominated in a “national currency” and the term “national currency” is defined in Section 2(19).

2. Digital asset service provider definition

The term “digital asset service provider” is defined in Section 2(7) of the GENIUS Act means a person that, for compensation or profit, engages in the business in the U.S., including on

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[25] *Id*.

behalf of customers or users in the U.S., of exchanging digital assets for monetary value; exchanging digital assets for other digital assets; transferring digital assets to a third party; acting as a digital asset custodian; or participating in financial services relating to digital asset insurance.

This definition of "digital asset service provider" expressly excludes:

(i) a distributed ledger protocol;
(ii) developing operating or engaging in the business of developing distributed ledger protocols or self-custodial software interfaces;
(iii) an immutable and self-custodial software interface;
(iv) developing, operating, or engaging in the business of validating transactions or operating a distributed ledger; or
(v) participating in a liquidity pool or other similar mechanism for the provisioning of liquidity for peer-to-peer transactions.

Just the same as for the detailed definition of "payment stablecoin," the detailed definition of "digital asset service provider" also uses several other terms that are defined within Section 2 of the GENIUS Act. For example, the term "digital asset" is defined in Section 2(6), the term "distributed ledger protocol" is defined in Section 2(9) and the term "distributed ledger" within the definition of "distributed ledger protocol" is defined in Section 2(8) as defined above.

ICBA believes that Treasury's rulemaking to implement the GENIUS Act should not add to the scope of the detailed definitions of "payment stablecoin," "digital asset service provider," or other terms defined within Section 2 of the GENIUS Act, which can be understood by a plain reading of the language. Augmenting the scope of the detailed definitions Congress chose to enact into law would go beyond the administrative authority delegated by Congress to implement the GENIUS Act. We maintain that the scope of the detailed terms adopted in Section 2 of the GENIUS Act must remain within the boundaries of the authority Congress has conferred,[26] and the full language of the terms "payment stablecoin," "digital asset service provider," and other terms within Section 2 of the GENIUS Act should be understood according to the plain meaning of the words Congress used.

If Treasury were to determine that a defined term is ambiguous, or is not sufficiently clear, and act to interpret or clarify the term by rulemaking, such an interpretation or clarification would be unlikely to be accorded judicial deference under the Supreme Court's *Loper Brigh*t decision, if challenged.[27] The responsibility for adopting the best reading of an ambiguous statute resides with the proper federal court, after the court applies all relevant statutory interpretation tools that the court decides are best.[28] Moreover, even when "an ambiguity [in a statute]…implicate[s] a technical matter," *Loper Bright* inveighs that judges, rather than agencies, are expected to and do "handle technical statutory questions."[29]

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[26] *See Loper Bright Enters. v. Raimondo,* No. 22-4751, 2024 WL 3208360 at *14 (U.S. June 28, 2024).
[27] *Id.* at *16.
[28] *Id.*
[29] *Id.* at *17.

C. Issuance and Treatment of Payment Stablecoins

The federal framework for payment stablecoin reserves must provide meaningful regulation and supervision to payment stablecoin issuers and digital asset service providers. ICBA offers a number of recommendations, highlighting the need for rigorous safety and transparency requirements for payment stablecoin reserves, marketing restrictions that prevent the impression that stablecoins are legal tender or backed by the government, and limits on any safe harbors for non-permitted issuers to remain consistent with the plain language of the GENIUS Act and avoid creating loopholes that would allow for evasion of regulatory oversight

1. Reserves

a. Composition of reserves

Section 4 of the GENIUS Act establishes the types of assets that may be used as reserves to back payment stablecoins. These include US coins and currency or money standing to the credit of an account at a Federal Reserve Bank; demand deposits or insured shares at an insured depository institution; Treasury bills, notes or bonds issued with or with a remaining maturity of 93 days or less; money received under repurchase agreements subject to certain conditions; reverse repurchase agreements subject to certain conditions; certain securities or money market funds invested in the assets listed above, or certain reserve assets held in tokenized form.

While the intention of this provision is to ensure that the reserves backing payment stablecoins are comprised of high-quality liquid assets, not all of the permissible reserve categories are of equal value. Some reserve asset types that may be permissible under section 4, such as foreign currency repos, digital asset repos, or various tokenized assets, could expose permitted payment stablecoin issuers and payment stablecoin customers to greater risk of loss and regulators must account for this when implementing the Act.

In light of the differing safety and liquidity profiles of each reserve asset type, the Agencies should implement measures to account for the distinct character of each reserve asset type. One way to account for the variable risks attributable to each category of assets would be to impose a weighting system that would account for these discrepancies. For example, currency and deposits should receive lowest risk-weight when compared to repurchase agreements, given the potential for default and other risks.

b. Transparency and reporting requirements

Section 4(a)(3) of the GENIUS Act requires permitted payment stablecoin issuers to have a registered public accounting firm examine its month-end report, and the CEO and CFO of the permitted payment stablecoin issuer must submit to the appropriate Federal or State regulator a certification of the report’s accuracy.

Implementing rigorous reporting requirements is critical, particularly in light of serious violations related to misrepresentations of reserves backing major stablecoins such as Tether's USDT.[30] The Agencies must establish a reporting framework that provides the public with accurate information regarding reserve composition. Regulators should look to analogous reporting frameworks such as the Report of Condition and Income ("Call Report") filed by banks or the quarterly 10-Q filings by securities issuers. These reporting regimes prize transparency and provide meaningful disclosure of material information to the public. Critically, Call Reports result in institutions presenting the same information in a standardized format across the banking sector. The Agencies should implement similar uniform standards for reporting reserve composition to ensure comparability. Most critically, the monthly reports should be made public to ensure transparency across the sector, similar to the regular cadence of bank and securities issuer reporting.

2. Safe harbors

The GENIUS Act permits the Secretary of the Treasury to issue regulations providing safe harbors from the Act's prohibition on any person other than a permitted payment stablecoin issuer issuing a payment stablecoin in the United States, and to allow for additional limited safe harbors from this prohibition in unusual and exigent circumstances.[31] However, Congress was clear that safe harbors must be "consistent with the purposes of the Act, limited in scope, and apply to a de minimis volume of transactions, as determined by the Secretary."[32] In keeping with the clear, unambiguous text of the Act, any safe harbors from § 3(a) must be extremely limited. Stablecoin issuers must be subject to meaningful regulation, and granting safe harbors undercuts the framework Congress put into place with the GENIUS Act and makes it easier for issuers to evade supervision and compliance burdens. Any safe harbor exceptions must not swallow the rule.

3. Marketing of Payment Stablecoins

Question 15 of the Treasury ANPR asks if there are any additional regulations or guidance needed to implement the prohibition contained in section 4(a)(9) on a permitted payment stablecoin issuer from marketing a payment stablecoin in such a way that a reasonable person would perceive that the payment stablecoin is either legal tender of the United States, is issued by the United States, or is guaranteed or approved by the United States.

The prohibition in the statute is both clear and broad. The creation of the perception is prohibited by statute. It is important that marketing materials, advertisements and other marketing activities that create the perception cannot be cured by the addition of a disclosure disavowing such guarantee or approval. Regulatory clarity on the inability of disclosure to counter the perception would protect U.S. consumers from deceptive and clever marketing and provide permitted payment stablecoin issuers with a roadmap for compliance with section 4(a)(9).

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[30] Commodity Futures Trading Commission, Release Number 8450-21: *CFTC Orders Tether and Bitfinex to Pay Fines Totaling $42.5 Million, Tether to Pay $41 million Over Claims that Tether Stablecoin was Fully Backed by US Dollars* (Oct. 15, 2021), https://www.cftc.gov/PressRoom/PressReleases/8450-21.
[31] GENIUS Act §§ 3(a), 3(c)(1)-(2).
[32] *Id*. at § 3(c)(1).

4. Non-financial Services Companies as Permitted Payment Stablecoin Issuers

ICBA is deeply concerned about the negative repercussions that could result from non-financial services companies receiving permission to act as permitted payment stablecoin issuers. Section 4(a)(12) of the GENIUS Act prohibits public nonfinancial companies from issuing a payment stablecoin without a unanimous vote of the Stablecoin Certification Review Committee ("SCRC"). When reviewing applications, the members of the SCRC must take into account the risk posed to the safety and soundness of the U.S. banking system, the financial stability of the U.S., and the Deposit Insurance Fund, as well as data privacy concerns and anti-tying restrictions. Big Tech or other non-financial firms must not be permitted to leverage stablecoins to exploit the payments system and gain more economic power over consumers' everyday lives. The separation of commerce and payment stablecoin issuance is critical to avoid risks to consumer privacy, conflicts of interest, and concentration of economic and financial power. These factors must all be taken into account by the members of the SCRC when weighing applications and should weigh heavily against a favorable decision. When carrying out the rulemaking required under 4(a)(12)(D), the members of the SCRC must clearly explain their review process and elaborate on the factors to be considered.

Question 16 asks what additional clarification is needed regarding section 4(a) (12) that provides a pathway for nonfinancial public US companies and foreign nonfinancial companies to issue payment stablecoins with a unanimous vote of the SCRC. All payment stablecoin issuers should be subject to the same regulatory framework as that developed under section 4(a) for federal permitted stablecoin issuers. This same framework should be the basis for the "broad-based principles" used to evaluate state-level payment stablecoin regimes under section 4(c)(2).

The SCRC should use these principles derived from the statutory framework to ensure that nonfinancial public US companies and foreign nonfinancial companies adhere to the same or higher standards as all other permitted stablecoin issuers. Failure to apply the framework and principles will create an uneven regulatory playing field for potential payment stablecoin issuers and put US consumers at risk. The findings required of the SCRC in section 4(a)(12)(B) and section 4(a)(12)(C) are in addition to the foundational framework and principles developed under Section 4(a).

5. State Regulatory Frameworks for Payment Stablecoins and Permitted Payment Stablecoin Issuers

Section 4(c)(2) of the GENIUS Act instructs Treasury to establish broad-based principles to assess whether a state regulatory regime is substantially similar to the federal framework under the GENIUS Act. The federal regulatory framework established in Section 4(a) requires the primary Federal payment stablecoin regulators, or the State payment stablecoin regulator to promulgate regulations in a variety of areas such as capital, liquidity, and risk management and requires Treasury to establish requirements for the application of anti-money laundering and auditing and reporting requirements.

The principles developed by Treasury should measure a state regulatory regime against these requirements to ensure that the state standards meet or exceed the standards set by the federal framework. The federal framework should set a floor that states must meet, but a state must also be allowed to exceed this bar if the state determines it is in the best interest of its citizens. This will permit each state the flexibility to address any unique concerns with state permitted payment stablecoin issuers.

In developing the principles and measuring the various state programs against those principles, Treasury should recognize the challenges facing many states in enacting the laws and promulgating the rules and regulations necessary to establish a regime for payment stablecoin licensing and regulation. Some state legislatures do not meet annually, and others convene for a limited number of days. Once enacting legislation is adopted, the states will need to develop licensing and regulatory structures to execute the regime. ICBA recommends that Treasury act expeditiously to publish the broad principles to enable the states to act and not be disadvantaged vis-à-vis federal or foreign payment stablecoin issuers.

Treasury should recognize that the requirement for annual recertification of state regulatory regimes may become unnecessarily burdensome to both the states and Treasury. Treasury should develop a streamlined recertification process that focuses on changes in the state regimes that would result in the state regime failing to meet the principles developed under section 4(c)(2). Section 4(c)(5)(B) instructs Treasury to deny recertification where a "State-level regulatory regime that has materially changed from the prior certification". Denial is appropriate where the change in the state regime results in it following below the standards set forth in the Section 4(c)(2) principles.

D. Illicit Finance Concerns

ICBA and community bankers urge the Treasury Department to issue robust regulations to implement Section 4(a)(5) that recognizes the unique—and growing—concerns associated with the illicit use of stablecoins. The Financial Action Task Force ("FATF") recently reported that "the use of stablecoins by illicit actors, including [Democratic Peoples' Republic of Korea] actors and terrorist financiers, has risen, with **most on-chain illicit activity now involving stablecoins**" [emphasis added].[33] This rapid rise should come as no surprise to policymakers: Stablecoins provide the foundation for a shadow banking system in which bad actors can easily transfer millions, safe in the knowledge that they will not have to contend with the KYC and AML/CFT requirements that traditional financial institutions must follow.

As FATF astutely observes, "mass adoption of stablecoins could potentially decrease the use of AML/CFT-obligated entities as stablecoins stored in unhosted wallets could potentially be used to purchase goods without being converted into fiat currency."[34] Unfortunately, this concern is no longer a prediction. The Multilateral Sanctions Monitoring Team ("MSMT") – of which the United States is a founding member – published a report in October that lists several

[33] FATF, *Targeted Update on Implementation of the FATF Standards on Virtual Assets and Virtual Asset Service Providers* (June 26, 2025), https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/2025-Targeted-Upate-VA-VASPs.pdf.coredownload.pdf.
[34] *Id*. at 21.

examples of North Korea using stablecoins to purchase military equipment. For example, one agent bought an armored vehicle with almost one million USDT and others sold portable missile defense systems to a Sudanese buyer for $10 million in USDT.[35] These are just a few of countless examples that we could cite to show that the pseudonymity afforded by stablecoins, along with the gaping holes in global regulation and enforcement, result in dire real-world consequences for American national security.

In addition to serving as a primary payment mechanism for North Korea's evasion of sanctions, stablecoins also power the acceleration of crypto scams. The latest report from the Federal Bureau of Investigation finds that crypto scams claimed at least $9.3 billion in losses last year, but the true figure is likely much higher due to underreporting.[36] The United Nations has determined that stablecoins serve as the "shadow banking system" that supports cybercriminal efforts. In particular, the United Nations and regional governments identify Tether ("USDT") on the Tron blockchain as "the preferred choice for Asian crime syndicates engaged in cyber-enabled fraud and money laundering operations servicing a wide range of criminal actors in and beyond the region."[37] FinCEN corroborated this finding in its final rule to designate the Cambodian financial conglomerate, Huione, as a primary money laundering concern. FinCEN said in the weeks following its proposal to sever Huione, "transactions involving Huione Group wallets amounted to more than USD 10 billion worth of the CVC Tether on Tron, and USD 219 million worth of the CVC Ethereum."[38]

Taken together, the use of stablecoins by adversarial nations and cybercriminals should serve as a loud alarm to Treasury about the urgent need to implement impactful anti-money laundering regulations for payment stablecoin issuers and any intermediaries that facilitate their transactions. Failing to do so will not only expose Americans to losing billions to fraudsters but also allow North Korea, and potentially other hostile state actors, to gain additional resources to develop weapons systems designed to threaten the United States and its regional allies.

To that end, we urge the Treasury Department to develop an AML/CFT framework, sanctions compliance, monitoring and reporting suspicious activity, and customer identification requirements for permitted payment stablecoin issuers that exceed those placed on banks.

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[35] Multilateral Sanctions Monitoring Team, *The DPRK's Violation and Evasion of UN Sanctions through Cyber and Information Technology Worker Activities* (Oct. 22, 2025), https://msmt.info/Publications/detail/MSMT%20Report/4221.

[36] Internet Crime Complaint Center, *Federal Bureau of Investigation: Internet Crime Report 2024* (April 23, 2025), https://www.ic3.gov/AnnualReport/Reports/2024_IC3Report.pdf.

[37] United Nations Office on Drugs and Crime, *Transnational Organized Crime and the Convergence of Cyber-Enabled Fraud, Underground Banking and Technological Innovation in Southeast Asia: A Shifting Threat Landscape* (Oct. 2024), https://www.unodc.org/roseap/uploads/documents/Publications/2024/TOC_Convergence_Report_2024.pdf

[38] FinCEN, Final Rule: Imposition of Special Measure Regarding Huione Group, as a Foreign Financial Institution of Primary Money Laundering Concern, 90 Fed. Reg. 48303 (Oct. 16, 2025).

1. Factors to Consider When Assessing Curing Noncompliant Permitted Payment Stablecoin Issuers

Treasury should consider the following factors to determine if a **noncompliant** permitted payment stablecoin issuer has cured its noncompliance:

Severity and Frequency of Noncompliance. Treasury should weigh the seriousness of each violation and the frequency with which such violations have occurred. These factors directly influence risk exposure and regulatory confidence. For example, repeated failures to implement AML controls pose a higher systemic risk than isolated technical errors. Treasury should also consider the duration of noncompliance; an entity that remained out of compliance for several years represents a greater risk than one that corrected deficiencies within weeks.

Demonstrated Commitment to Remediation. Treasury should require clear documented evidence of an entity's efforts to cure noncompliance promptly and effectively. This includes actions such as hiring compliance officers with specialized expertise in how stablecoins operate, updating policies and procedures, enhancing internal controls and auditing capabilities, and investing in monitoring technology. For instance, an issuer that immediately takes steps to execute corrective measures demonstrates a stronger commitment than one that delays remediation.

Effectiveness of Updated Compliance Measures. Treasury should assess whether newly implemented controls and procedures adequately address prior gaps and reduce the likelihood of recurrence. Effective measures may include automated sanctions screening and enhanced on-going transaction monitoring.

Documented Regulatory Cooperation. Full transparency and proactive engagement with regulators should be considered evidence of good faith and willingness to comply. Entities that voluntarily disclose issues, respond promptly to inquiries, and share remediation progress reports should be viewed more favorably than those that withhold information or resist oversight.

Evidence of a Formal Remediation Plan. A formal remediation plan with measurable and clearly defined milestones should be required to ensure accountability and progress. Such a plan should include specific deadlines for implementing new controls, training staff, and conducting independent reviews.

2. Unhosted Wallets Cannot Exist Outside the KYC Framework

The Administration should follow through with the intent of its original unhosted wallet rule by requiring comprehensive identity verification and wallet ownership to ensure compliance and prevent illicit transactions.[39] When FinCEN proposed the rule at the end of 2021, the agency asserted that enhanced recordkeeping and verification of transactions involving unhosted wallets was necessary to "establish appropriate controls to protect United States national

[39] FinCEN, Notice of Proposed Rulemaking: Requirements for Certain Transactions Involving Convertible Virtual Currency or Digital Assets, 86 Fed. Reg. 2897 (Jan. 15, 2021).

security from a variety of threats from foreign nations and foreign actors, including state-sponsored ransomware and cybersecurity attacks, sanctions evasion, and financing of global terrorism, among others."[40] In the years since FinCEN first identified this grave risk associated with the criminal use of unhosted wallets, the threats to US national and economic security have multiplied many times over. North Korea continues to execute enormous operations to steal billions in crypto to fund their nuclear weapons program.

As documented in a new report by the Multilateral Sanctions Monitoring Team ("MSMT"), unhosted wallets are one of the most crucial elements in North Korea's money laundering activities. The group describes how North Korean agents routinely start by exchanging stolen cryptoassets for Ethereum, Bitcoin, and DAI "using decentralized exchanges and consolidate these assets in unhosted wallets."[41] North Korean cybercriminals also frequently use mixers and privacy wallets, such as Tornado Cash and Wasabi, to further obfuscate their trails.[42] Once they have acquired ether, the money laundering continues with the use of bridges and instant exchanges to move into Bitcoin stored within unhosted wallets.[43] Additional steps include Bitcoin mixers, swapping Bitcoin for Tron, and then exchanging Tron for stablecoins.[44] The process concludes with North Korean agents using over-the-counter brokers to acquire fiat currency to deposit into Chinese banks.[45]

In February, they accomplished the biggest heist of all-time by taking $1.5 billion from the crypto exchange Bybit.[46] In the wake of this attack, North Korean operatives cycled the stolen ether through 125,000 different Ethereum wallets to launder the stolen assets and convert them to bitcoin.[47] The MSMT report notes that North Korean agents then turned to Russian intermediaries to cash out a portion of the stolen assets.[48] The report details the frequent use of other intermediaries to obtain significant sums, such as a Hong Kong-based agent that arranged "the cash-out of over $100 million in stolen cryptocurrency from the ByBit heist as of April 2025."[49] This episode not only illustrates the ease with which North Korean operatives can move assets across unhosted wallets, but also the myriad ways in which they cash out those assets through underground money laundering connections. ICBA and community bankers strongly contend that the introduction of KYC requirements for unhosted wallet users can help to deter North Korea's viable channels to launder stolen assets and improve America's national and economic security.

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[40] *Id*.
[41] Multilateral Sanctions Monitoring Team, *supra* n. 35 at 43.
[42] *Id*.
[43] *Id*.
[44] *Id*.
[45] *Id*.
[46] Internet Crime Complaint Center, *North Korea Responsible for $1.5 Billion ByBit Hack*, Alert Number I-022625-PSA (Feb. 26, 2025), https://www.ic3.gov/psa/2025/psa250226.
[47] FATF, *supra* n. 33, at 19.
[48] Multilateral Sanctions Monitoring Team, *supra* n. 35 at 49.
[49] *Id*.

3. Freeze, Seize, Block and Reject Capabilities Should Be Defined

The GENIUS Act states that permitted payment stablecoin issuers must have "technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate Federal or State laws, rules, or regulations."[50] ICBA supports Congress' intent to ensure that issuers have the ability to prevent bad actors from moving or accessing stablecoins, but we urge Treasury to give careful consideration to how this capability—particularly the key terms of "block," "freeze," and "reject"—is defined. Blockchains, and the stablecoins that circulate on them, do not have the same system architectures, so the process for one issuer to freeze one stablecoin on Ethereum may differ from the process to freeze one on another chain. For stablecoins on Ethereum, issuers have the ability to include a function in their governing smart contract to blacklist stablecoins they issue.[51] In contrast, the Solana blockchain has a native ability for tokens to be restricted with instructions that prevent sending, receiving, or the closure of the token account.[52] In other words, while both actions try to accomplish a similar end result, they do so through different mechanisms. Will both mechanisms prove sufficient under regulation? ICBA does not take a stance on whether any specific architecture is more effective or preferable than another—we only raise this concern to point out that policymakers should carefully consider individual blockchain and stablecoin designs to provide clear guidance on what actions/end results will satisfy regulatory requirements.

E. Foreign Payment Stablecoin Issuers

Treasury must ensure that any foreign stablecoin issuers have home country regulatory regime that meets or exceeds the same principles that are applied to the states, thus holding foreign stablecoin regulatory regimes to a standard no less rigorous than that at both the federal and state levels. Allowing foreign stablecoins that face less rigorous home county regulatory regimes to circulate in the US puts US citizens at risk of fraud and loss while putting U.S. permitted stablecoin issuers, both state and federal, at a disadvantage to their foreign competitors.

Even so, ICBA has serious questions about the ability of any foreign payment stablecoin issuer to comply with several provisions of the GENIUS Act. While the GENIUS Act prohibits "any digital asset service provider to offer, sell, or otherwise make available in the United States" any foreign payment stablecoin unless it has the technological capability to comply with all applicable legal requirements, there are many ways in which users can interact with non-compliant stablecoins. Since the definition of "digital asset service provider" excludes distributed ledger protocols, such as decentralized exchanges, there will be countless avenues for US citizens to obtain and use non-compliant stablecoins throughout crypto ecosystem. While many consumers elect to use centralized exchanges that should have the capacity to block non-compliant stablecoins, any American can easily download an unhosted wallet to send and receive any compatible token, including non-compliant stablecoins.

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[50] GENIUS Act §§ 4(a)(5)(A)(iv).
[51] Daniel Phillips, *How Can Cryptocurrencies Be Frozen on a Blockchain?,* CoinMarketCap, https://coinmarketcap.com/academy/article/how-can-cryptocurrencies-be-frozen-on-a-blockchain.
[52] Solana, *Tokens on Solana* (last visited Nov. 3, 2025), https://solana.com/docs/tokens.

Moreover, how will foreign payment stablecoin issuers be able to identify where their tokens circulate? Stablecoin transactions conducted outside of centralized exchanges do not capture critical information like name and address, so how will issuers know where the holder of any stablecoin is located or what their nationality is? While this gap obviously presents numerous challenges with AML/CFT and KYC requirements, it also creates a quandary with a foreign payment stablecoin issuer's ability to maintain "reserves in a United States financial institution sufficient to meet liquidity demands of United States customers."[53] How can a foreign payment stablecoin issuer ever know how many of its stablecoins are held within unhosted wallets by US citizens?

Without that knowledge, ICBA fails to see how regulators could accurately assess any issuer's ability to adhere to this legal requirement. As discussed earlier in this letter, a straightforward solution is to reintroduce the unhosted wallet rule to require verification of users. Without this action, we caution that foreign stablecoin issuers will likely hold insufficient reserves to meet US redemption demands, raising the prospect that users will be left empty-handed, and the wider financial system may be exposed to bank-run shocks.

F. The Agencies Must Adhere to Administrative Law and Cost-Benefit Analysis Requirements.

1. Robust Cost-Benefit Analysis Must Support Every Rule Implementing the GENIUS Act

Cost-benefit analysis is a foundational principle of sound regulatory policy. It ensures that rules are not only well-intentioned but also economically justified, data-driven, and mindful of unintended consequences.[54] The Trump Administration has consistently emphasized the importance of rigorous cost-benefit analysis, culminating in Executive Order 14192 that mandated that for every new regulation, at least ten existing regulations be repealed. It further required that the total incremental cost of all new regulations finalized in FY2025 be significantly less than zero, as determined by the Office of Management and Budget.

While the 10-for-1 deregulatory mandate applied to FY2025, EO 14192 continues to require agencies to:

- Assess both costs and benefits of regulatory actions; and
- Issue regulations only upon a reasoned determination that benefits justify costs.[55]

The current ANPR raises concern, however, by posing only three questions on costs versus eight on benefits. This imbalance suggests the possibility of insufficient attention to the

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[53] GENIUS Act § 18(3).
[54] "[T]he next President should… develop a rigorous, data-driven approach that will result in the least burdensome rules possible." The Heritage Foundation, *Mandate for Leadership 2025: The Conservative Promise* at 49 (Paul Dans & Steven Groves eds. 2023).
[55] Executive Order 14192, Unleashing Prosperity Through Deregulation, 90 Fed. Reg. 9065 (2025), https://www.federalregister.gov/documents/2025/02/06/2025-02345/unleashing-prosperity-through-deregulation.

economic harms and burdens that GENIUS Act rules may impose. Treasury must take the time to collect and analyze data to quantify costs, especially those affecting community banks, small businesses, and the local, often rural, communities that they serve.

As an example of potential unintended costs or harms, the Treasury Borrowing Advisory Committee (TBAC) presentation from April 2025 highlighted some of the major risks that are deeply troubling to community banks:

- Deposit Flight—TBAC noted that approximately $6.6 trillion in U.S. commercial-bank transactional deposits are "at risk" of migrating to stablecoins.
- Reduced Lending—A significant migration of deposits would shrink a critical funding source for local lending, disproportionately harming small businesses and agricultural communities.[56]

While community banks are concerned about how Treasury might mitigate unintended costs or harms in the forthcoming implementation efforts, we take some comfort in the importance that senior officials in the Trump Administration have placed on rigorous cost-benefit analysis that addresses unintended consequences in all rulemakings. For instance, Treasury Secretary Scott Bessent emphasized in remarks on April 9, 2025 that, "In assessing the costs of a regulatory action, we should be attentive to the potential burdens arising from unintended consequences. In assessing the benefits of a regulatory action, we should remember the tremendous economic and human cost of a financial crisis."[57]

Other senior officials also have testified to the importance of cost-benefit analysis in rulemakings. Under Secretary for Domestic Finance Jonathan McKernan testified before Congress that regulations should be "data-driven based on the evidence" and should account for "unintended consequences."[58] Also, the Director of OMB, Russell Vought, committed to ensuring full cost-benefit analysis at his January 22, 2025, confirmation hearing:

> *Sen. Ricketts*: If you are confirmed, will you commit that you work with me to help reverse and expose the regulations and how agencies try to hide the cost, try to play around with the numbers?… We need to make sure that when we are passing regulations, that we have a full cost-benefit analysis that people understand the trade-offs we are making by having regulation. Will you, if you are confirmed, commit that you will work with us to be able to make sure that we fully understand the costs and that these agencies will not try to hide the cost of regulations?

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[56] Treasury Borrowing Advisory Committee, *Digital Money*, *supra* n. 23.
[57] U.S. Dep't of the Treasury*, supra n. 3.*
[58] Nomination Hearing, Senate Committee on Banking, Housing, and Urban Affairs (Feb. 27, 2025) (testimony of Jonathan McKernan, nominee for Director, Bureau of Consumer Financial Protection), https://www.banking.senate.gov/hearings/02/20/2025/nomination-hearing.

> *Dir. Vought*: Yes, absolutely. This is one of those fundamental apparatuses that we need to get back in place that we had in the first term. If confirmed, it will be one of the earliest projects that I am a part of.[59]

ICBA will carefully review rulemakings implementing the GENIUS Act to ensure the Agencies provide thorough cost-benefit analyses for the public's consideration.

2. Cost-Benefit Analysis Must Be Conducted Independently of the Rulemaking Process

To ensure objectivity, cost-benefit analysis must be conducted by a separate part of Treasury, independent from the offices drafting the rules. Mark Calabria, currently a senior OMB official and Chief Statistician as well as former Director of the Federal Housing Finance Agency, testified before the House Financial Services Committee in 2014: "To be effective we must ensure that cost-benefit analysis within an agency is independent of the rule-making process… The conflict of interest here should be blindingly obvious."[60]

We agree. We respectfully submit that each and every rulemaking by Treasury and the Agencies implementing the GENIUS Act must undergo rigorous cost-benefit analysis conducted by a separate part of Treasury or the relevant agency, independent from that engaged in the actual rulemaking. One possibility is the Office of Financial Research, whose statutory purpose is to collect and standardize financial data, conduct research, and develop tools to monitor and measure risks to financial stability. Another possibility is the Office of Economic Policy, which serves to analyze economic developments, report on current and prospective conditions, and advise on the determination of appropriate U.S. and international economic policies. A third possibility (to the extent it is not engaged in the actual rulemaking) is the Office of Financial Institutions Policy, whose mission is to develop, analyze, and coordinate policy on financial institutions, covering their safety and soundness, structure, and competitiveness (including analyzing the impact of regulatory issues on small businesses). Or, to mitigate burden on each Office, perhaps the Office of Financial Research, Office of Economic Policy, and Office of Financial Institutions Policy could jointly conduct cost-benefit analyses for all the rulemakings required under the GENIUS Act.

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[59] Nomination of the Hon. Russell T. Vought, Of Virginia, To Be Director of the Office of Management and Budget. Hearing Before the Senate Committee on the Budget, 119th Cong. 25 (2025) (testimony of Hon. Russel T. Vought) https://www.congress.gov/119/chrg/CHRG-119shrg58373/CHRG-119shrg58373.pdf.

[60] Legislation to Reform the Federal Reserve on Its 100-Year Anniversary, Hearing before the House Comm. On Financial Services, 113th Cong. (July 10, 2014) (written testimony of Mark Calabria, Director, Financial Regulation Studies, Cato Institute), https://docs.house.gov/meetings/BA/BA00/20140710/102495/HHRG-113-BA00-Wstate-CalabriaM-20140710.pdf.

3. All Legal Requirements for Cost-Benefit Analysis Must Be Faithfully Met

A number of other formal requirements related to cost-benefit analysis must be met in the implementation of the GENIUS Act. Treasury must comply with all statutory and executive requirements governing cost-benefit analysis, and we list some of those below.

OMB Circular A-4

OMB Circular A-4 provides comprehensive guidance on evaluating benefits and costs, considering alternatives, and ensuring transparency. Originally issued on September 17, 2003 and updated in November 2023, OMB Circular A-4 provides comprehensive guidance to federal agencies on conducting regulatory analysis and outlines best practices for evaluating the benefits and costs of regulatory actions, including:

- Establishing a baseline for comparison,
- Considering alternative regulatory approaches,
- Assessing quantitative and qualitative impacts,
- Addressing uncertainty and distributional effects, and
- Ensuring transparency, objectivity, and reproducibility of results.

Circular A-4 is grounded in Executive Order 12866 and the Regulatory Right-to-Know Act, and it applies to all economically significant regulatory actions. Treasury must adhere to these standards when implementing rules under the GENIUS Act.[61]

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act, codified at 5 U.S.C. §§ 601–612, requires federal agencies to assess the impact of their regulations on small entities, including small businesses, small governmental jurisdictions, and certain nonprofit organizations. If a rule is expected to have a "significant economic impact on a substantial number of small entities," the agency must prepare both an Initial Regulatory Flexibility Analysis and a Final Regulatory Flexibility Analysis.[62]

This requirement is especially relevant to rulemakings under the GENIUS Act, which could impose substantial costs and have a significant economic impact on community banks and small businesses. The Agencies implementing the GENIUS Act must not bypass this obligation and should ensure full compliance with the RFA.

Unfunded Mandates Reform Act (UMRA)

The Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. §§ 1501–1571, requires federal agencies to prepare a written statement before issuing any proposed or final rule that

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[61] OMB Circular A-4, https://www.whitehouse.gov/wp-content/uploads/2023/11/CircularA-4.pdf
[62] 5 U.S.C. §§ 603, 604.

includes a federal mandate likely to result in expenditures of $100 million or more in any one year by state, local, or tribal governments, or the private sector.

This statement must include:

- A cost-benefit assessment,
- A description of macroeconomic effects,
- Consideration of regulatory alternatives, and
- Consultation with affected governments.[63]

If any GENIUS Act rule meets this threshold, the Agencies implementing the Act must conduct a full UMRA analysis. Given the potential enormity of the impact of the GENIUS Act on the U.S. economy, we respectfully submit that GENIUS Act rules would meet this threshold.

Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act of 1995, codified at 44 U.S.C. §§ 3501–3521, federal agencies must follow a structured process before collecting information from the public. This includes:

- Justifying the need and intended use of the information – Agencies must demonstrate the necessity and practical utility of the information being collected.
- Estimating the burden on respondents – The PRA defines "burden" as the time, effort, or financial resources required to respond. Agencies must estimate this burden in terms of hours and cost.
- Publishing notices in the Federal Register for public comment – The process includes:
  - A 60-day notice for initial public comment.
  - A 30-day notice before final submission to the OMB.
- Obtaining OMB approval and displaying a valid control number

The Office of Information and Regulatory Affairs within OMB oversees this process to ensure compliance and minimize public burden. The Agencies must ensure full adherence to these procedures before implementing any data collection mechanisms associated with rulemakings under the GENIUS Act.

G. Regulations Must Adress Risks to the Banking System and Financial Stability Posed by Integration of Stablecoins

Trouble in the payment stablecoin ecosystem has the potential to spill over into the broader financial system:

> [T]here are clear financial stability implications that arise from stablecoins becoming large investors in Treasury markets. As discussed in the literature on stablecoins, they remain runnable, with their balance sheets subject to both liquidity and interest rate risk,

[63] 2 U.S.C. §§ 1532, 1535.

> as well as some credit risk exposures. As such, concentrated positions in T-bills, particularly those which are not set to immediately mature, may subject the market to fire sales if a major stablecoin were to face severe redemption stress, not least given the absence of discount window or lender-of-last-resort access… The financial stability impact of such fire sales may not be significant while the stablecoin sector is small, but this may change as the stablecoin sector grows, contributing to growing concerns about the stability of the Treasury market.[64]

If customers lose confidence and initiate a run on a payment stablecoin, the impacts would be felt in "other asset classes, as stablecoin reserves are sold off or unloaded to meet the redemption demand."[65] This is because a run could force an issuer to sell off sizeable portfolios of reserve assets such as commercial paper or Treasuries, "which could cause distress in the short-term funding market."[66]

1. Capital and Liquidity Requirements

Given the risks payment stablecoins pose to the stability of and conditions within the financial system, Congress appropriately tasked the Agencies with establishing capital and liquidity requirements for issuers.[67]

Payment stablecoin issuers should be subject to robust liquidity requirements. The Agencies should develop a framework similar to the liquidity coverage ratio that would enable regulators, customers, market participants, and the public to easily grasp liquidity. Notably, the Federal Reserve requires large banks to meet public disclosure requirements with the goal to "promote market discipline by providing the public with comparable liquidity information about covered companies."[68] The reporting requirements are designed to provide sufficient granularity that allows market participants an accurate view of a covered company's liquidity risk profile, while simultaneously encouraging covered companies to engage in safe and sound practices and reinforce financial stability.[69] Permitted payment stablecoin issuers should be required to calculate an analogous liquidity ratio, to be accompanied by a public reporting requirement.

Capital requirements should also be applied to permitted payment stablecoin issuers. The requirement to hold capital encourages prudent risk management and provides a measure of accountability for decisionmakers and investors. Capital requirements would also ensure that permitted payment stablecoin issuers have sufficient loss-absorbing capacity to continue

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[64] Rashad Ahmed & Iñaki Aldasoro, *Stablecoins and safe asset prices*, BIS Working Papers No. 1270 (May 2025), at 21, https://www.bis.org/publ/work1270.pdf.
[65] Gordon Y. Liao & John Caramichael*, Stablecoins: Growth Potential and Impact on Banking*, FRB International Finance Discussion Papers No. 1334 (2022), at 8, https://doi.org/10.17016/IFDP.2022.1334.
[66] *Id.*
[67] *See* GENIUS Act § 4(a)(4).
[68] FRB, Final Rule: Liquidity Coverage Ratio: Public Disclosure Requirements; Extension of Compliance Period for Certain Companies to Meet the Liquidity Coverage Ratio Requirements, 81 Fed. Reg. 94922, 94923 (Dec. 27, 2016).
[69] *Id.* at 94925.

operations be unwound in an orderly manner.[70] This need is particularly acute given the bankruptcy framework set forth in the GENIUS Act, as discussed further below in this letter. Capital requirements would also serve to protect "the general public and regulatory bodies from spillover risks, while strengthening consumer confidence and trust in regulatory systems for stable value tokens."[71]

ICBA awaits with interest a proposal for capital and liquidity requirements and urges the Agencies to carefully consider how to develop a framework that protects the financial system from the risks inherent in the payment stablecoin model.

2. Deposit insurance implications

The Agencies must establish a robust regulatory framework that takes into account the impact payment stablecoins have on the banking system and the implications for the deposit insurance system.

Recent history has shown that stress in crypto markets can negatively impact banks and the FDIC's Deposit Insurance Fund (DIF). Circle experienced its USDC stablecoin breaking its peg when it was revealed that Circle had $3.3 billion in deposits at Silicon Valley Bank at the time the Bank failed.[72] The failures of Silicon Valley Bank and Signature Bank resulted in disruptions in public confidence that led then Secretary of the Treasury Janet Yellen to approve a systemic risk exception that protected both insured and uninsured depositors.[73] The FDIC reported that, "As of June 30, 2025, the total loss estimate for Silicon Valley Bank and Signature Bank was $21.8 billion, of which an estimated $18.6 billion is attributable to the protection of uninsured depositors pursuant to the systemic risk determination[.]"[74] In order to recover the loss to the DIF, the FDIC imposed a special assessment that impacted insured depository institutions with over $5 billion in assets.[75] In other words, banks impacted by the assessment were left to bear the costs of bailing out Circle and the other beneficiaries of the systemic risk exception.

The Agencies must ensure that the regulatory framework implementing the GENIUS Act prevents such an outcome - imperiling the DIF and raising assessments for insured depository institutions to bail out the crypto industry - from occurring again.

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[70] *See, e.g.,* Gordon Y Liao, Dan Fishman & Jeremy Fox-Geen*, Risk-based Capital for Stable Value Tokens* (Aug. 15, 2024), https://ssrn.com/abstract=4926568.
[71] *Id.* at 1.
[72] Krisztian Sandor, *Circle Confirms $3.3B of USDC's Cash Reserves Stuck at Failed Silicon Valley Bank*, Coindesk (March 10, 2023), https://www.coindesk.com/business/2023/03/11/circle-confirms-33b-of-usdcs-cash-reserves-stuck-at-failed-silicon-valley-bank; Vicky Ge Huang, Hannah Miao & Caitlin Ostroff, *Circle's USDC Stablecoin Breaks Peg With $3.3 Billion Stuck at Silicon Valley Bank*, Wall Street Journal (March 11, 2023), https://www.wsj.com/articles/crypto-investors-cash-out-2-billion-in-usd-coin-after-bank-collapse-1338a80f.
[73] Joint Statement by the Department of the Treasury, Federal Reserve, and FDIC (March 12, 2023), https://www.fdic.gov/news/press-releases/2023/pr23017.html.
[74] FDIC, *Special Assessment Pursuant to Systemic Risk Determination*, https://www.fdic.gov/deposit-insurance-assessments/special-assessment-pursuant-systemic-risk-determination.
[75] FDIC, Final Rule: Special Assessment Pursuant to Systemic Risk Determination, 88 Fed. Reg. 83329 (Nov. 29, 2023).

3. Insolvency issues

The Agencies should act quickly to conduct the study regarding potential insolvency of permitted payment stablecoin issuers required in § 11(h) of the GENIUS Act. Failures can happen unexpectedly, and regulators must not be caught flat footed in the case of such an event, particularly when we have seen how quickly market sentiment can shift and contagion can spread across the financial sector.

One such issue regulators must consider and address is the impact of the GENIUS Act's approach to bankruptcy proceedings. The GENIUS Act grants priority for the claims of payment stablecoin customers over all others.[76] This arrangement contrasts with standard bankruptcy procedure in which trustee and administrative expenses receive priority.[77] Further, payment stablecoin regulators lack the authority to institute resolution proceedings for non-bank payment stablecoin issuers, and as a result these issuers may be unlikely to enter bankruptcy proceedings prior to becoming insolvent. Not only could this make it more challenging to find a trustee willing to administer a complex process, but such a collapse could also spread further contagion in the financial system.

Another aspect of the GENIUS Act implementation that the Agencies must carefully consider is the interaction between custodial arrangements for payment stablecoin reserves and the legal framework for bank resolutions. Section 10(c)(3) of the GENIUS Act provides that in the event a custodian of reserves fails, the claims of a payment stablecoin customer "with respect to such payment stablecoins shall have priority over the claims of any person other than the claims of another customer… unless the customer expressly consents to the priority of such other claim." This provision of the GENIUS Act runs contrary to the depositor preference order set forth in the Federal Deposit Insurance Act, an aspect that would be relevant if the failed custodian of the payment stablecoin reserves is an FDIC-insured depository institution.[78] The Agencies must ensure that the implementation of the GENIUS Act does not impair the longstanding commitment to making insured depositors whole, and that the FDIC remains able to carry out its resolution and receivership role that is critical to maintain the stability of and public confidence in the U.S. financial system.

III. <u>Conclusion</u>

ICBA appreciates the opportunity to comment on the ANPR and looks forward to the opportunity to work with Treasury to find a path forward that enables community banks to maintain their critical role in the US financial system. Should you wish to discuss our positions in further detail, please contact the undersigned at brian.laverdure@icba.org or amy.ledig@icba.org.

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[76] GENIUS Act § 11(d)(2) (amending 11 U.S.C. § 507(e)).
[77] *See, e.g.,* 11 U.S.C. § 507(a).
[78] When a bank fails, after payment of secured claims, the FDIC acting as receiver for a failed insured depository institution pays the receivership's administrative expenses, followed by insured depositors, uninsured depositors, general creditors, subordinated debt holders, and shareholders or members. *See* Federal Deposit Insurance Act § 11(d)(11)(A), 12 U.S.C. § 12(d)(11)(A); 12 CFR § 360.3.

Sincerely,

/ x /
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/ x /
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