

CLIENT ALERT

U.S. Treasury Seeks Public Comment on the Implementation of the GENIUS Act

NOVEMBER 10, 2025

On September 19, 2025, the U.S. Department of the Treasury (Treasury) issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comment on questions relating to the implementation of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act.^[1] Through this ANPRM, Treasury sought feedback on a wide range of potential regulatory issues, including clarity around issuance and marketing restrictions, compliance with the Bank Secrecy Act (BSA) obligations, anti-money laundering (AML) and sanctions enforcement, coordination between state and federal oversight, foreign regulatory comparability, and tax implications.

SCOPE

The Treasury's ANPRM sought public comment on regulatory issues related to the GENIUS Act, organized into six key categories:

1. Stablecoin Issuers and Service Providers
2. Illicit Finance
3. Foreign Payment Stablecoin Issuers
4. Taxation
5. Insurance
6. Economic Data

QUESTIONS TO BE ANSWERED^[2]

Treasury has issued a comprehensive set of 58 questions as part of its GENIUS Act ANPRM. Below are some of the key questions identified as especially important. For the full list of questions and public comments submitted, please refer to the Department of the Treasury's [GENIUS Act Implementation Notice](#).

1. Stablecoin Issuers and Service Providers:

- Given that Section 3(a) of the GENIUS Act prohibits anyone other than a Permitted Payment Stablecoin Issuer (PPSI) from issuing payment stablecoins in the United States, with extraterritorial reach, but allows Treasury to establish limited safe harbors for low-volume or exigent transactions aligned with the Act's purpose, should Treasury issue regulations providing for safe harbors from Section 3(a)? If so, what factors should Treasury consider in adopting these regulations?

- 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. Is this scope of the term “payment stablecoin” sufficiently clear as defined in the GENIUS Act? If not, what additional clarification should be provided?
- Are any regulations or guidance necessary to clarify the scope of the reserve requirements in Section 4(a) or the requirement to publish the composition of the reserves?
- Should any regulations be issued to clarify the meaning of “pay,” “interest,” “yield,” “solely,” or otherwise clarify the scope of Section 4(a)(11)? In particular, should any regulations be issued to clarify whether, and to what extent, any indirect payments are prohibited?
- Under Section 4(c)(2) of the GENIUS Act, Treasury is required to establish broad-based principles for a state-level regulatory regime. Therefore, how is a determination that a state-level regime is “substantially similar” to the federal regulatory framework, as described in Sections 4(c)(1) and (2) of the GENIUS Act, similar to or different from a determination that a state-level regime “meets or exceeds the standards and requirements” for issuing payment stablecoins, as described in Section 4(c)(5)?^[3]

2. Illicit Finance:

- Section 4(a)(5) of the GENIUS Act requires PPSIs to comply with all federal laws on sanctions, anti-money laundering, and customer due diligence, and directs Treasury to issue regulations supporting effective compliance programs and transaction controls. How do payment stablecoin issuers anticipate implementing technical capabilities, policies, and procedures to block, freeze, and reject specific or impermissible transactions that violate federal or state laws, rules, or regulations, including transactions involving the secondary market, such as those that involve sanctioned persons or countries?
- Section 8 of the GENIUS Act requires foreign stablecoin issuers to comply with lawful orders. If they fail to do so, Treasury may designate them as noncompliant, barring secondary market trading in the U.S. Treasury can also issue waivers and must define criteria for reversing noncompliance. What else should Treasury consider in promulgating a regulation related to Section 8 of the GENIUS Act, including its ability to issue licenses and waivers?

3. Foreign Payment Stablecoin Issuer:

- As Treasury identifies factors for determining whether a foreign jurisdiction has a regulatory and supervisory regime that is comparable to the requirements established under the GENIUS Act, including standards for issuing payment stablecoins provided in Section 4(a), what specific factors should Treasury consider, including factors that should disqualify a foreign jurisdiction from being determined to be comparable?
- What information should U.S. authorities require from a FPSI registered under Section 18(c), and in what format(s) should such information be made available, to ensure that U.S. customers understand how to demand timely redemption of the instrument?

4. Taxation:

- To what extent would guidance from the IRS on the classification of payment stablecoins be necessary or helpful to taxpayers?
- What other topics, if any, should any such tax guidance address? Which issues should be the highest priority items to address?

5. Insurance:

- How should implementation of the GENIUS Act take into account insurance industry practices related to payment stablecoins, the development of insurance markets related to payment stablecoins, the activities of domestic and foreign insurers and reinsurers regarding payment stablecoins, and the provision of insurance coverages relevant to payment stablecoins?
- What other topics should Treasury consider with respect to the impact of the GENIUS Act and its implementation on the insurance industry?

6. Economic Data:

- What are the estimated one-time and ongoing costs for PPSIs and FPSIs to comply with the requirements under the GENIUS Act, including licensing, disclosure, and AML and sanctions program requirements?
- What are the potential advantages of registering under state regimes compared to federal regimes, particularly in terms of administrative efficiency and support for innovation?
- What is the estimated improvement in compliance efficiency and market participation due to clearer regulatory guidance as compared to the environment before the enactment of the GENIUS Act?

As of November 4, 2025, industry groups and other stakeholders filed 403 comment letters with the Treasury in respect of this ANPRM.^[4] The Treasury staff will analyze these comments to assist them in formulating a notice of proposed rulemaking (NPRM), which would be the next step in the rulemaking process. We expect the Treasury to publish that NPRM some time in the first half of 2026. Pursuant to Section 13 of the GENIUS Act, the federal payment stablecoin regulators are required to promulgate regulations within one year of the Act's enactment – i.e., by July 18, 2026. OCC Comptroller Gould recently previewed a forthcoming OCC rulemaking under the GENIUS Act applicable to stablecoin issuers, stating, “[w]e expect to issue a proposal . . . setting forward liquidity and other [prudential] restrictions or requirements around stablecoin issuers.”^[5]

FOR MORE INFORMATION

If you have any questions regarding this subject or related subjects, or if you need assistance, please contact [Carl Fornaris](#) (Chair, Financial Innovation and Regulation Practice), [Daniel T. Stabile](#) (Chair, Digital Assets Practice), [Will Turner](#) (Partner), [Logan Payne](#) (Of Counsel), [Yulia Makarova](#) (Partner), [Rebecca Jack](#) (Associate), Jane Perov (Law Clerk), Spencer Peek (Associate) or your Winston & Strawn relationship attorney. You can also visit our [Cryptocurrencies, Digital Assets & Blockchain Technology](#) page for more information.

[1] See <https://www.federalregister.gov/public-inspection/2025-18226/guiding-and-establishing-national-innovation-for-us-stablecoins-act-implementation>.

[2] The questions referenced here do not represent the full list published in the Federal Register. View the complete list at <https://www.federalregister.gov/public-inspection/2025-18226/guiding-and-establishing-national-innovation-for-us-stablecoins-act-implementation>.

[3] Under Section 4(c)(1) of the GENIUS Act, a state-qualified payment stablecoin issuer with a consolidated total outstanding issuance not exceeding \$10 billion may choose to be regulated under a State-level regime, provided that the regime is *substantially similar* to the federal framework established by the Act. However, Section 4(c)(5) introduces a stricter standard by requiring a state-level regime to *meet or exceed* the federal standards. This creates a notable discrepancy between the two provisions: while Section 4(c)(1) allows for substantial similarity, Section 4(c)(5) demands equivalence or superiority, raising interpretive concerns about the actual threshold states must meet to qualify for independent regulatory oversight.

[4] See <https://www.regulations.gov/document/TREAS-DO-2025-0037-0001>.

[5] See <https://www.americanbanker.com/news/gould-backs-charters-to-bring-nonbanks-into-regulatory-fold#:~:text=Gould%20also%20previewed%20forthcoming%20OCC,result%20of%20widespread%20stablecoin%20adoption.>

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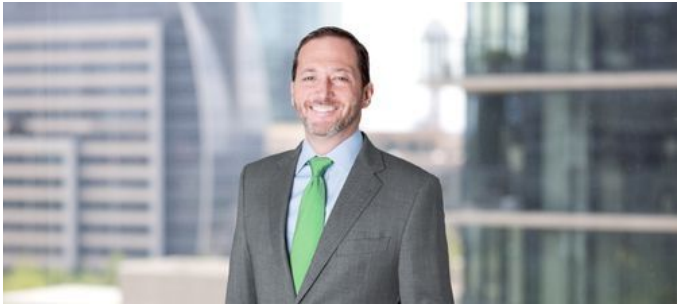
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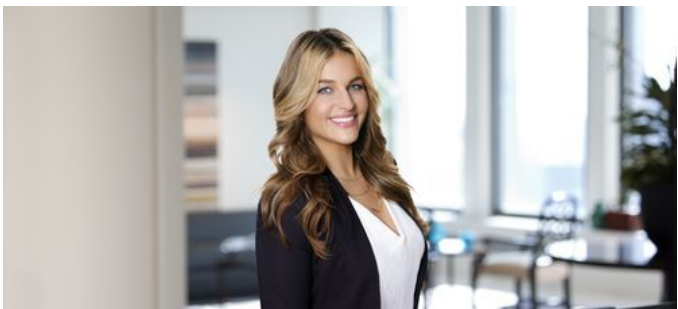
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