



August 13, 2025

The Honorable Tim Scott
Chairman
Committee on Banking, Housing & Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Elizabeth Warren
Ranking Member
Committee on Banking, Housing & Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Cynthia Lummis
Chairman
Digital Assets Subcommittee
United States Senate
Washington, DC 20510

The Honorable Ruben Gallego
Ranking Member
Digital Assets Subcommittee
United States Senate
Washington, DC 20510

Dear Senators:

On behalf of the undersigned coalition of state financial regulators, state legislators, consumer advocacy groups, and banking industry trade associations, we respectfully urge you to use the upcoming market structure legislation to strike Section 16(d) of the recently enacted GENIUS Act and to oppose any expansion of its scope in this or future legislation. While the signatories of this letter may have differing views on the merits and substance of the market structure proposals being considered, we agree that this flaw in the GENIUS Act must be addressed.

Section 16(d) allows any state-chartered *uninsured* depository institution with a stablecoin subsidiary to perform traditional (*i.e.*, not solely related to payment stablecoins) money transmission and custody activities nationwide through that subsidiary, thereby bypassing host state licensing and allowing substantially less state oversight. This unprecedented overriding of state law and supervision weakens vital consumer protections, creates opportunities for regulatory arbitrage, and undermines state sovereignty.

Uninsured depository institutions present distinct risks, and individual states have a strong interest in safeguarding their residents from the heightened risk of financial harm if such institutions fail or if they harm consumers. Consequently, some state legislatures have chosen to limit or even prohibit the operation of uninsured depositories in their state. Where they are allowed, both home state and host state financial services regulators license and supervise the uninsured depositories, holding them to the prudential and consumer protection standards established by each state. Uninsured depository institutions chartered in one state may only branch into another state with that host state's authorization

and subject to its supervision. This framework supports innovation and diversity in our financial services industry while maintaining local accountability through robust oversight and application of state consumer protection laws.

Section 16(d) of the GENIUS Act upends this system, overriding much of the supervisory authority of host state regulators over certain uninsured depositories operating within their borders and limiting state governments from imposing consistent and appropriate standards and protections for firms serving their residents. While the GENIUS Act contains rules of construction preserving state consumer protection laws, it does not clearly subject state-chartered uninsured depository institutions to host state laws or establish host state regulators' power to enforce them. Ignoring state law in this regard invites regulatory arbitrage, allowing certain uninsured depository institutions special privileges to operate across state lines as federally insured banks currently do, but without the panoply of regulatory and supervisory requirements, or limitations on preemption applicable to those institutions.

There is no compelling federal interest to justify this potentially sweeping disregard for state oversight. Neither Section 16(d) nor the uninsured bank provision contemplated in the Responsible Financial Innovation Act of 2025 RFI are necessary to effectuate a national stablecoin regulatory framework. In fact, these provisions would undermine that framework by giving payment stablecoin subsidiaries of uninsured banks broader powers than stablecoin subsidiaries of other entities. Removing this provision from the GENIUS Act and preventing its further expansion would better align federal law with the purpose and intent of national stablecoin regulation while preserving foundational safeguards embedded in our dual banking system.

We strongly encourage Congress to use the opportunity afforded by discussions regarding the "Responsible Financial Innovation Act of 2025" and other market structure proposals to remove Section 16(d) from the GENIUS Act and avoid further erosion of state authority to supervise and regulate uninsured banks operating in each state.

Respectfully submitted,

American Bankers Association

Americans for Financial Reform

Conference of State Bank Supervisors

Independent Community Bankers of America

Money Transmitter Regulators Association

National Conference of State Legislatures

National Consumer Law Center (on behalf of its low-income clients)