COMMENT LETTER

GENIUS Implementation: FinCEN OFAC Stablecoin Issuer

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Regulatory and Strategic Affairs Division
Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183
Docket No. FINCEN-2026-0100
RIN 1506-AB73

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex / Freedman's Bank Building
1500 Pennsylvania Ave. NW
Washington, DC 20220

Re: *Permitted Payment Stablecoin Issuer Anti-Money Laundering/Countering the Financing of Terrorism Program and Sanctions Compliance Program Requirements*

Dear Sir or Madam:

The Conference of State Bank Supervisors ("CSBS")1 provides the following comments on the joint proposal2 from the Financial Crimes Enforcement Network ("FinCEN") and the Office of Foreign Assets Control ("OFAC") (collectively, the "agencies") to implement the anti-money laundering/countering the financing of terrorism ("AML/CFT") and sanctions compliance provisions of the GENIUS Act.3 Specifically, our comments provide considerations and recommendations related to:

- AML/CFT and sanctions compliance requirements regarding secondary market activity; and,
- Issuer supervision for AML/CFT and sanctions compliance purposes.

1. **AML/CFT and sanctions compliance requirements regarding secondary market activity**

CSBS supports the agencies' proposed requirement that issuers be able to block, freeze, and reject specific or impermissible stablecoin transactions in both the primary and secondary markets. Illicit use of stablecoins

primarily occurs in the secondary market for sanctions evasion, fraud, money laundering, drug trafficking, terrorist financing, cybercrime, and ransomware purposes.[4] To give full effect to the GENIUS Act's objectives of thwarting money laundering and sanctions evasion, the proposal rightfully extends the technical capability requirements of Section 4(a)(5)(A)(iv) to secondary market transactions.

At the same time, the proposed rule appropriately adopts a flexible, technology-neutral approach to how issuers implement and operationalize their capabilities to block, freeze, and reject impermissible transactions. The agencies should preserve this approach in any final rule, allowing issuers to satisfy these requirements in a manner that reflects the diversity and ongoing evolution of stablecoin designs, smart contract functionality, blockchain networks, and third-party analytics, compliance, and infrastructure arrangements.

2. **Issuer supervision for AML/CFT and sanctions compliance purposes**

The proposed rule would establish a mandatory notice and consultation process whereby a federal payment stablecoin regulator would consult with FinCEN before initiating an AML/CFT enforcement action or significant AML/CFT supervisory action against an issuer.[5] Involving FinCEN more deeply in the supervisory process through the proposed consultation requirement could significantly reduce examination efficiency and lead to other unintended consequences.[6] To avoid these outcomes, CSBS recommends that FinCEN adopt the proposal's alternative optional consultation process.

1. *Mandatory notice and consultation would lengthen examination timelines, delay closure of supervisory findings, and create uncertainty for institutions.*

The proposed notice and consultation process is overly cumbersome and would trigger voluminous supervisory documentation requirements, resulting in more unresolved supervisory matters, delayed reports of examination, and deferred remediation or enforcement. First, a federal payment stablecoin regulator would provide FinCEN with at least 30 days' advance notice of the potential AML/CFT enforcement action or significant supervisory action, accompanied by extensive examination documentation and confidential supervisory information ("CSI") related to the potential action. The federal payment stablecoin regulator would also provide FinCEN with any additional information requested related to the potential action. Finally, the federal payment stablecoin regulator would be required to consider (but not necessarily concur with or follow) any input or recommendations provided by FinCEN on the potential action.[7]

However, the proposal does not require FinCEN to respond to a federal payment stablecoin regulator's potential significant supervisory action. Should FinCEN maintain the mandatory consultation process in a final rule, it should expressly state that the consultation requirement is deemed satisfied and the regulator may proceed if FinCEN provides no feedback within the 30-day period. Similarly, a final rule should confine the entirety of FinCEN's review and feedback process, including any additional information requests, to 30 days beginning with the date that FinCEN was notified of a potential significant supervisory action.

2. *Mandatory notice and consultation could create supervisory divergence and lead to overly expansive enforcement.*

In addition to examination delays, a mandatory notice and consultation process could increase supervisory divergence among regulators in a manner that frustrates AML/CFT oversight for issuers. For example, issuer subsidiaries of state-chartered banks and other state qualified stablecoin issuers would be subject to AML/CFT supervision by both a state payment stablecoin regulator and federal payment stablecoin regulator,[8] and the proposed consultation could lead to such entities' supervisors issuing significant AML/CFT supervisory actions according to different processes.[9] In the context of joint examinations, the added complexity of FinCEN consultation could result in a wide range of issuers, including issuer subsidiaries of a state-chartered bank or

other state qualified payment stablecoin issuers receiving separate, delayed, and conflicting examination reports, MRAs, and enforcement actions. This would not promote supervisory consistency across issuers.

Moreover, the proposed consultation framework could unintentionally increase enforcement risk for issuers over the long run. FinCEN would have new access to federal examination records, CSI, and other documentation regarding AML/CFT compliance issues and deficiencies provided during mandatory consultations. The proposal's goal is to leverage these materials to focus enforcement and significant supervisory actions on material issues, but future FinCEN leadership could instead use these same records to pursue an expansive AML/CFT enforcement agenda at odds with the proposed consultation's stated purpose.

3. *Issuers should be provided with the option to request that their federal payment stablecoin regulator consult with FinCEN regarding significant AML/CFT supervisory actions.*

Rather than establish the proposed mandatory notice and consultation process, FinCEN should instead permit optional consultation at an issuer's request regarding significant supervisory actions.10 If an issuer believes an anticipated supervisory action is inconsistent with advancing a risk-based AML/CFT framework, that entity could request that its federal payment stablecoin regulator consult with FinCEN before finalizing the action. This approach would balance the benefit of FinCEN providing a broader view of AML/CFT program consistency, without making FinCEN a mandatory participant in every federal payment stablecoin regulator's significant supervisory communications.

Conclusion

CSBS supports the proposal's requirement that issuers maintain technical capabilities, policies, and procedures to block, freeze, and reject impermissible transactions, including on the secondary market. This approach will promote the financial integrity safeguards envisioned for stablecoins in the GENIUS Act. Also, an optional supervisory consultation process between FinCEN and the federal payment stablecoin regulators will better balance AML/CFT supervisory consistency with efficiency and effectiveness.

Sincerely,

Brandon Milhorn

President and CEO

Download the comment letter.

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  CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

- 2

  FinCEN and OFAC, Joint Proposed Rule, *Permitted Payment Stablecoin Issuer Anti-Money Laundering/Countering the Financing of Terrorism Program and Sanctions Compliance Program Requirements*, 91 Fed. Reg. 18582 (Apr. 10, 2026).

- 3

See 12 U.S.C § 5903(a)(5).

- 4

  Seesupra note 2 (proposed 31 C.F.R § 1033.221(c)).

- 5

  Depending on its organizational structure, affiliation with a bank, or issuing volume, an issuer may be subject to joint supervision by a state payment stablecoin regulator as well as the FDIC, Federal Reserve, OCC, or IRS for AML/CFT purposes. *See supra* note 2 (proposed 31 C.F.R §§ 1010.100(ttt), 1010.100(uuu), 1010.100(vvv), 1010.100(www), 1010.100(xxx)).

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  FinCEN acknowledges the notice and consultation requirement would add "costs," "logistical burdens," and "delays in exam report issuance." *Seesupra* note 2, at 18621.

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  Seesupra note 2 (proposed 31 C.F.R § 1033.221(c)).

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  Depending on its organizational structure, affiliation with a bank, or issuing volume, an issuer may be subject to joint supervision by a state payment stablecoin regulator as well as the FDIC, Federal Reserve, OCC, or IRS for AML/CFT purposes. *See supra* note 2 (proposed 31 C.F.R §§ 1010.100(ttt), 1010.100(uuu), 1010.100(vvv), 1010.100(www), 1010.100(xxx)).

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  In general, states derive their BSA/AML examination authority from their own chartering, licensing, and supervisory statutes and regulations, under which they examine for compliance with federal BSA/AML obligations. While FinCEN relies on the states' BSA/AML supervision, its delegation of BSA/AML examination authority is limited to the federal functional regulators. Accordingly, state payment stablecoin regulators fall outside of and are not contemplated in the proposed notice and consultation process. *See* 31 U.S.C. § 5318(a)(6) (permitting FinCEN to rely on state BSA/AML examinations). *See also* 31 C.F.R. § 1010.810(b) (delegating FinCEN's BSA/AML examination authority to only the federal functional regulators).

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  FinCEN offers this optional consultation framework as an alternative approach. *Seesupra* note 2, at 18621 (Question 24).

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