

## State Stablecoin Issuers Need Certainty from Treasury

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The GENIUS Act preserved a state pathway because it recognized the role that state regulation has played in fostering flexibility and resilience in stablecoin markets for the last decade. Just like with the dual banking system, Congress created parity between federal and state regulatory options to allow greater choice for payment stablecoin issuers and more space for innovation.

But a recent proposal by the U.S. Department of the Treasury would threaten this balance. Treasury's proposal would offer federally approved issuers a safe harbor as they navigate delays as the GENIUS Act requirements come into effect, without a corresponding protection for state approved issuers.

Unless Treasury provides that corresponding protection for state approved issuers, the vibrant stablecoin ecosystem that grew pre-GENIUS Act risks collapsing into a federal monoculture.

Existing issuers of payment stablecoins face operational challenges and uncertainty immediately following the GENIUS Act effective date (Jan. 18, 2027).

Payment stablecoins do not comply with the GENIUS Act until their issuer has been approved by a federal or state regulator. Issuers may not be able to even apply for federal agency approval until Jan. 18, 2027, and the federal agencies can take weeks to approve an application. Stablecoin markets could grind to a halt if existing pre-GENIUS issuers who want a federal approval must stop issuing stablecoins while they wait.

Treasury is offering a safe harbor allowing federal applicants to operate while their application is pending. This safe harbor allows issuers seeking federal approval to keep their business running while they wait.

There is no corresponding safe harbor for state approved issuers.

At first glance, this makes sense. Some states that license major stablecoin issuers already have or are putting in place legal frameworks that should satisfy the requirements for a state to approve issuers under the GENIUS Act. There should not be a gap that requires state approved issuers to stop operating.

But there is a wrinkle. States who want to approve issuers must certify to a federal body, the Stablecoin Certification Review Committee, that their laws meet the GENIUS Act requirements. The Committee reviews that certification, and it is unlikely to complete its review before the effective date.

State approved issuers should be able to operate while the Committee conducts its review. But prospective issuers and holders are left with uncertainty about what happens if the Committee denies the state's certification. Will they have to stop issuing new stablecoins? What happens to holders of their existing stablecoins?

If Treasury's proposal is finalized, the federal pathway is clear in the early going, but the state pathway has a potential obstacle. Issuers may feel forced on to the federal path, disrupting the parity that Congress intended. Federally approved issuers could have a major first mover advantage as these markets develop.

Treasury can restore parity by confirming that issuers can operate during the Committee review process and any subsequent appeals. That can happen as a legal opinion, as recommended by New York's Department of Financial Services, or via a safe harbor for issuers during Committee review, as suggested by CSBS.

Providing clarity there would be a first step to maintaining parity. But other states have waited to adopt rules until Treasury finalizes the principles that states are supposed to use to review whether their laws meet the GENIUS Act requirements. The GENIUS Act required those principles to be finalized by July 18, 2026. But as of Oct. 19, the principles remain incomplete.

Because of the delay, the states who waited are not going to be able to implement their laws before the effective date. Issuers who might prefer to work with a particular state will either need to wait for those state laws to go into effect, ceding potential business to competitors, or shift to another path.

Treasury should allow issuers to operate in those states while they finalize their laws. The Committee review process already includes a conditional certification process for states may not have GENIUS compliant laws in place immediately on the effective date. Treasury should offer a state harbor to issuers operating in a state that has filed a conditional certification expressing that its laws will be in place by Jan. 18, 2028.

Implementing these safe harbors will help maintain parity between state and federal payment stablecoin issuers, as the GENIUS Act intended. By preserving a viable state pathway, Treasury will support robust, resilient and innovative stablecoin markets.

For more detail, see CSBS's [comment](#) on Treasury's proposal.

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